

University of Warwick institutional repository: <http://go.warwick.ac.uk/wrap>

A Thesis Submitted for the Degree of PhD at the University of Warwick

<http://go.warwick.ac.uk/wrap/52245>

This thesis is made available online and is protected by original copyright.

Please scroll down to view the document itself.

Please refer to the repository record for this item for information to help you to cite it. Our policy information is available from the repository home page.

Intergenerational Ethics and Climate Change

EDWARD ALEXANDER PAGE

submitted for the degree of

DOCTOR IN PHILOSOPHY

UNIVERSITY OF WARWICK

**DEPARTMENT OF POLITICS AND INTERNATIONAL
STUDIES**

JANUARY 1998

Summary of Thesis

Global climate change has important implications for the way in which benefits and burdens will be distributed amongst present and future generations. As a result, it raises important questions of *intergenerational distributive ethics*, which is the issue of how benefits and burdens should be distributed across generations. It is shown that two serious problems arise for those who wish to approach these questions by utilising familiar ethical principles. The first (the *Non-Reciprocity Problem*) arises from the apparent lack of reciprocity evident in dealings between members of different generations. The second (the *Non-Identity Problem*) arises from the fact that the very social policies which climatologists and scientists claim will reduce the risks of climate change will also predictably, if indirectly, determine which individuals will live in the future. The troubling questions which these problems raise for theorising about intergenerational ethics are discussed at length, and it is argued that they do not, ultimately, pose an insurmountable barrier for such theorising, and in particular for the idea that present persons have wide ranging obligations to members of future generations. It is argued, however, that these two problems do severely limit the extent to which theories which are *reciprocity-based* and/or *identity-dependent* can be extended to cover issues of intergenerational distribution. Reciprocity-based theories assume that obligations of distributive ethics are owed only to those who can benefit others; whereas identity-dependent theories assume that acts, or social policies, cannot violate the requirements of distributive ethics if they do not harm, or disadvantage, particular individuals. Some positive grounds for our obligations to future generations are also outlined. In particular, the idea that members of existing generations ought not act so as to undermine the integrity of various future communities, such as nations or cultures, is defended.

Table of Contents

Illustrations	vi
List of Abbreviations	vii
List of Hypothetical Examples	viii
Acknowledgements	ix
Chapter 1 Intergenerational Ethics and Climate Change	1
1. Introduction	1
2. Three Methodological Assumptions	10
3. Outline of Thesis	15
4. A Review of Recent Research on Climate Change	18
4.1 The Science of Climate Change	18
4.1.1 The Natural Greenhouse Effect	18
4.1.2 The Enhanced Greenhouse Effect	20
4.1.3 Three Important Findings	23
4.2 Climate Change and Human Population Health	27
4.2.1 Extreme Weather Events	29
4.2.2 Heat Stress	31
4.2.3 Biological Disease Agents	32
4.3 Economic, Social, and Cultural Impacts of Climate Change	34
4.3.1 The Developing World - The Case of India	35
4.3.2 Coastal Zones - The Case of Bangladesh	36
4.3.3 Small Island Societies	36
5. Summary	38

Chapter 2	Climate Change and Distributive Ethics	39
1.	Introduction	39
2.	Intergenerational Equality	40
2.1	Equality of Welfare	42
2.2	Equality of Resources	48
2.2.1	Intergenerational Equality of Impersonal Resources	49
2.2.2	Intergenerational Equality of Impersonal and Personal Resources	52
2.3	Equality of Basic Capabilities	55
2.4	Equality of Opportunity	58
2.4.1	Arneson and Equal Opportunity for Welfare	60
2.4.2	Cohen and Equal Access for Advantage	64
3	Equality or Priority?	68
3.1	Parfit on Giving Priority for the Worst Off	69
4	Equality, Priority, or Sufficiency?	75
4.1	The Divisiveness of Egalitarianism and Prioritarianism	77
4.2	The Sufficiency View and Intergenerational Ethics	79
5.	Other Theories of Intergenerational Ethics	81
Chapter 3	The Non-Reciprocity Problem	85
1.	Introduction	85
2.	Reciprocity-Based Distributive Ethics	87
2.1	Reciprocity as Self-Interest	88
2.2	Reciprocity as Fairness	89
3.	The Non-Reciprocity Problem	91
3.1	Reciprocity as Self-Interest and the Non-Reciprocity Problem	95
3.2	Reciprocity as Fairness and the Non-Reciprocity Problem	99
3.3	Four Inconsistent Beliefs	101
4.	The Limits of the Non-Reciprocity Problem	105

4.1	Non Reciprocity-Based Theories of Distributive Ethics	105
4.2	The Counter-Intuitive Implications of Reciprocity-Based Ethics	107
4.3	Negative Versus Positive Obligations	110
5.	The Chain of Concern Model	113
5.1	Objections to the Chain of Concern Model	119
5.1.1	People Who are Not Motivated to Save for Their Descendants	120
5.1.2	Harming Remote Future Generations	121
6.	The Trusteeship Model	124
6.1	Becker's Model of Intergenerational Trusteeship	125
6.2	Objections to the Trusteeship Model	128
6.2.1	Involuntary Receipt and Unintentional Production	128
7.	Chapter Summary	132
 Chapter 4 Reciprocity and Posthumous Harm		134
1.	Introduction	134
2.	A Theory of Posthumous Harms	139
3.	Posthumous Harms and the Non-Reciprocity Problem	142
4.	Objections to the Idea of Posthumous Harms	145
4.1	The Experience Requirement	146
4.2	The Existence Requirement	149
4.3	The Intrinsic Properties Requirement	152
5.	Two Theories of Well-Being	158
5.1	The Subjective Desire Fulfilment Theory	159
5.2	Objectivist Theories of Well-Being	167
6	Conclusions: The Limits of the Symmetry View	173

Chapter 5	The Non-Identity Problem	175
1.	Introduction	175
2.	The Single-Person Non-Identity Problem	176
2.1	The Cases of Anna and Bella	178
2.2	Non-Identity, Reciprocity, and the Issue of Wrongful Handicap	181
2.3	The Appeal to Side-Effects	183
2.4	Wrongful Handicap and Alternatives to the Person-Affecting Restriction	184
3.	The Social-Choice Non-Identity Problem	188
3.1	Resourcism, Contractualism, and the Non-Identity Problem	191
3.2	Four Inconsistent Beliefs	196
3.3	The Limits of the Non-Identity Problem	199
4.	Rights and the Non-Identity Problem	204
4.1	Interests, Choices, and the Rights of Future Persons	206
4.2	The Retroactive Right-Waiving Objection	210
4.3	Specific Interests, Specific Rights, and the Non-Identity Problem	215
4.4	Responses to the Retroactive Right-Waiving Objection	221
5.	Conclusions: The Limitations of the Appeal to Specific Rights	225
Chapter 6	Group Rights and The Non-Identity Problem	227
1.	Introduction	227
2.	Liberalism and the Problem of Group-Rights	228
3.	Raz, Kymlicka, and the Individualist View	231
4.	Van Dyke and Collectivist Rights	236
5.	Taylor and the Value Collectivist View	243
6.	Value Collectivism	246
6.1	Group Value and Societal Culture	251
7.	Obligations to Future Collectivities	253

7.1	Climate Change and the Claims of Future Collectivities	253
8.	The Group-Centred View: Some Problems	263
 Chapter 7 Conclusions		 268
1.	Summary of Argument	268
2.	Applications	275
 Bibliography		 278

Illustrations

Figures

Figure 1:	Reciprocity and Distributive Ethics	88
Figure 2:	Rawls' Chain of Concern Model	120
Figure 3:	The Trusteeship Model	125
Figure 4:	The Source of Well-Being	158
Figure 5:	Individual Rights and Group Rights	243
Figure 6:	Value Collectivism and Value Individualism	246
Figure 7:	Identity-Dependent and Identity Independent Theories	254

Tables

TABLE 1:	Current & Pre-Industrial Concentrations of GHGs	21
TABLE 2:	IPCC Projections for Future Climate Change	25

List of Abbreviations

°C	degrees Celsius (0°C = 273 K approximately)
CF ₄	perfluoromethane
CFC-11	trichlorofluoromethane
CH ₄	methane
cm	centimetres
CO ₂	carbon dioxide
ER	Experience Requirement
EXR	Existence Requirement
FBI	Federal Bureau of Investigation
GtC	gigatonnes of carbon (1 GtC = 1 billion (10 ⁹) tonnes of carbon = 3.7 gigatonnes of carbon dioxide)
GDP	gross domestic product
GHGs	greenhouse gases
GNP	gross national product
HCFC-22	chlorodifluoromethane
IPCC	Intergovernmental Panel on Climate Change
IPR	Intrinsic Properties Requirement
m	million
N ₂	molecular nitrogen
NER	Narrow Existence Requirement
ppmv	parts per million (10 ⁶) by volume
ppbv	parts per billion (10 ⁹) by volume
pptv	parts per trillion (10 ¹²) by volume
Q	Same Number Quality Claim
SDFT	Subjective Desire Fulfilment Theory
UK	United Kingdom
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
US	United States of America

List of Hypothetical Cases

The Case of Louis	46
The Case of Tiny Tim	47
The Case of Jude	65
The Case of Smith	139
The Case of Jones (& Smith Junior)	140
The Case of Mulder	150
The Case of Scully	150
The Case of Evans	155
The Case of Brown	160
The Case of Swampy	163
The Case of Leonardo	164
The Cases of Anna & Bella	178
The Conservation-Depletion Case	189
The Case of The Man Who Wrote to <i>The Times</i>	212
The Case of the Alcoholic Mother	218
The Case of Grant	219
The Case of Jim	224
The Case of the Displaced Islanders	255

Acknowledgements

I would like to thank my supervisors, Susan Hurley and Andrew Williams, for their invaluable comments on a draft version of this thesis, as well as on numerous other papers during my time as a graduate student. Will Kymlicka read early versions of chapters 3 and 4 over the course of a four-month stay at the European University Institute in Florence in 1996, and I am grateful for his comments. I am also grateful to contemporaries working in the field of political philosophy at Warwick - in particular Chris Woodard, Andrew Walsh, and Luis Martin - for providing a stimulating environment in which to work. Carla Koen, Selina Chen, and Steve Smith also provided major sources of encouragement at various stages of the project. I would also like to acknowledge an intellectual debt I owe to the work of Derek Parfit. It was a fascination for Parfit's seminal contribution to the issue of intergenerational responsibility which inspired me to write a PhD on the subject. Finally, I would like to thank my parents for the tremendous support I have received from them over the course of this project. Needless to say that, despite the debt I owe to all of the above, any remaining errors and omissions in the thesis are my own.

Chapter 1: Intergenerational Ethics and Climate Change

1. Introduction

Questions of intergenerational distributive ethics, that is, of how benefits and burdens should be distributed across generations, appear to be raised by a number of contemporary environmental, cultural, and economic issues. Prominent examples include depletion of non-renewable natural resources, destruction of the ozone layer, and levels of public debt. However, perhaps the best discussed contemporary public issue which raises these questions is that of *global climate change*.¹

Substantial evidence exists that continuing release of greenhouse gasses (GHGs) into the atmosphere will have grave consequences for the long-term health of the earth's environment and its human inhabitants. In its most recent assessment of the climate change issue, for example, the authoritative Intergovernmental Panel on Climate Change (IPCC) concluded that 'the balance of evidence suggests discernible human influence on climate change.'² The IPCC also found that the long-term impact of climate change, in virtue of the disturbances it will cause for the functioning of

¹ I refer to the definition of climate change given in the text of the United Nations Framework Convention on Climate Change (UNFCCC). According to Article 1 of the UNFCCC, climate change refers to changes in climate which are 'attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods' (*United Nations Framework Convention on Climate Change*, London, HMSO Books, Cm 2833, 1995, p.4).

² J.T. Houghton, L.G. Meira-Filho, B.A. Callander, N. Harris, A. Kattenberg, and K. Maskell, eds., *Climate Change 1995: The Science of Climate Change*, Cambridge, Cambridge University Press, 1996 (hereafter IPCC, 1996a), p. 5.

physical systems, will have a predominantly, if not uniformly, *adverse* impact on the health of future human populations.³

It is within this context that concern regarding the way in which climate change will have far reaching implications for the distribution of social and economic benefits across generations has gathered momentum in recent years. This concern has been given official sanction by both the policy documents of individual countries and of the United Nations. Article 3.1 of the United Nations Framework Convention on Climate Change (UNFCCC),⁴ for example, states that those countries party to it

should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.⁵

³ See A.J. McMichael et al, 'Human Population Health', in R.T. Watson, M.C. Zinyowera and R.H. Moss, eds., *Climate Change 1995: Impacts, Adaptations, and Mitigation of Climate Change*, Cambridge, Cambridge University Press, 1996 (hereafter IPCC, 1996b), pp. 564ff.

⁴ The UNFCCC was adopted at the United Nations Conference on Environment and Development, held in Rio de Janeiro in June 1992, and was designed to serve as the framework for further co-ordination and negotiation towards legally binding protocols on GHG emissions to be agreed in Kyoto in December 1997. According to the latest, Kyoto, protocol to the UNFCCC, developing countries must reduce their collective emissions of the six most important GHGs by 5.2 per cent by 2012, as compared with present levels. The text of the Kyoto Protocol can be found on the world-wide web (<http://www.cop3.org/home.html>).

⁵ *United Nations Framework Convention on Climate Change*, p.5. Article 2 of the same convention sets out an objective of stabilising atmospheric GHG concentrations at levels which 'would prevent dangerous anthropogenic interference with the climate system' and within a time-frame 'sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner' (p.5).

On the other hand, perhaps the most striking finding of the IPCC's Second Assessment Report on the economic and social dimension of climate change, is that climate change issues raise 'particular questions of equity among generations.'⁶

This last claim, while not unchallenged, appears to command very wide agreement amongst policy-makers, ethicists, and scientists alike. In fact, the findings of the IPCC's Second Assessment Report as a whole command cross party support in the UK, and in many other industrialised and developing countries. At the New York 'Rio Plus Five' Earth Summit held in June 1997, for example, Tony Blair drew upon these findings in order to urge all industrialised nations to set ambitious targets for the stabilisation, and eventual reduction, of GHG emissions. In his speech to the summit, Blair observed that

This Earth is the only planet in the solar system with an environment that can sustain life. Our solemn duty as leaders of the world is to treasure that precious heritage, and to hand on to our children and grandchildren an environment that will enable them to enjoy the same full life that we took for granted.⁷

The previous Conservative Secretary of State for the Environment, John Gummer, also showed himself to be a firm supporter of the IPCC's research findings. Gummer endorsed the findings of two important reports on the impact of climate change in the

⁶ K.J. Arrow et al, 'Intertemporal Equity, Discounting and Economic Efficiency', in J.P. Bruce, H. Lee and E.F. Haites, eds., *Climate Change 1995: Economic and Social Dimensions of Climate Change*, Cambridge, Cambridge University Press, 1996 (hereafter IPCC, 1996c), p. 130. It is worth noting that IPCC use the notions of 'fairness', 'equity', and 'justice' interchangeably (IPCC, 1996c, p.85).

⁷ See "'Save the Planet' Plea to World Leaders by Blair", *The Times*, Tuesday 24 June 1997, p.1.

1990's, which predicted various long-term shifts in weather patterns, health problems, and economic activity in the UK as a result of climate change. In the foreword to a 1997 report on the UK's response to the UNFCCC mentioned above, Gummer observed that

Climate change threatens our world and our children's future. . . If we act effectively we can confine the impact of climate change within a containable measure. If we do not, the effect could make the lives of our grandchildren immeasurably more difficult and perhaps threaten the future of the planet itself.⁸

While it might be argued that the content of such speeches, and much of the public concern about climate change in general terms, is motivated predominantly by common-sense convictions rather than by a fully developed theory of environmental or intergenerational ethics, there is at least one line of argument which might be appealed to in order to provide an underlying ethical justification for such concerns. This line of argument focuses solely on the benefits that maintaining the integrity of the climate system will have for future members of the human race, and as such it is put forward in the spirit of *humanism*.⁹ The argument has three steps, and it goes something like the following:

⁸ See The Department of the Environment, *Climate Change: The UK Programme*, London, HMSO Books, February 1997, Cm 3558, p.3.

⁹ Which I take, following Joseph Raz, to be the view that 'the explanation and justification of the goodness or badness of anything derives ultimately from its contribution, actual or possible, to human life and its quality' (Raz, *The Morality of Freedom*, Oxford, Clarendon Press, 1986, p.194).

(1) the changes in the climate system which are being brought about by human-originating atmospheric GHG emissions pose a clear threat to the well-being of members of future generations.

(2) human practices which threaten the well-being of members of future generations raise important questions of intergenerational distribution.

(3) by virtue of being a clear example of a human-originating practice which threatens the well-being of members of future generations, climate change raises questions of intergenerational distribution.¹⁰

In this thesis, I will be investigating this important line of argument, which seems to underpin much common-sense thinking about the ethical ramifications of global climate change, as well as the ethical stance of the IPCC.¹¹ In particular, I will be investigating the veracity of premises 1 and 2, as well as seeking to show how the various debates which arise in relation to these premises might be clarified. Consider the former. Some will think that this premise should be abandoned because the phenomenon of climate change is a 'scare story' with no basis in scientific fact, and as such it cannot pose a threat to anyone's well-being, future persons included.¹²

¹⁰ I do not wish to rule out the possibility, of course, that there exist other (humanist or non-humanist) arguments which would give a similar unity to these diverse expressions of intergenerational ethical responsibility. Those which spring to mind turn on the ethical value of non-human animals, components of the natural world, the biosphere itself, or on a more theistic model.

¹¹ See, for example, K.J. Arrow et al, 'Intertemporal Equity, Discounting and Economic Efficiency', pp.125ff.

¹² This view is rarely expressed in print in this country. However, energy industry organisations such as the World Energy Council have expressed such opinions in the past. In a press release shortly before the publication of the IPCC's Second Assessment Report, the

Others have argued that climate change, while it certainly exists, will not have the range and depth of adverse effects on future generations that the IPCC suggest. They have also claimed that the *net* long-term impacts of climate change on human-kind will either be negligible or mildly *beneficial* (as a result of reducing cold-related deaths and increasing opportunities for outdoor leisure, touristic pursuits and so forth).¹³ I think that these responses are unsound, however, and I review the overwhelming evidence for this view in a review of the science and impacts of climate change in section 4 of this chapter.

Consider, next, the objections which might be directed towards premise 2, which will be the primary concern of the thesis. Whereas few deny that global environmental problems such as climate change pose a threat to the well-being of future generations, it might nevertheless be claimed that such threats are simply not the concern of distributive ethics. The requirements of distributive ethics, one might think, bind only contemporaries belonging to the same society, or only contemporaries whatever society they belong to.

On the other hand, it might be conceded that the impacts of climate change are of relevance for distributive ethics, but only insofar as they threaten the well-being of those who will belong to the nearest of future generations. Such claims may appear to

organisation described the IPCC's research as 'deficient and of little value to policymakers.' See 'Climate Report 'Is Deficient'', *The Financial Times*, 25 April 1996, p.7.

¹³ One of the better known proponents of this sceptical position, Patrick Michaels, has described the scientific basis of the IPCC's recent Second Assessment Report as 'deeply unscientific' (see Fred Pearce, 'Greenhouse Wars', *New Scientist*, 139, 1997, p.38). Other sources of the sceptical view can be found in various contributions to the energy industry sponsored *World Climate Report* (edited by Michaels), for example, 'Global Warming: Slouching Towards Moderation', *The World Climate Report*, University of Virginia, 2, 23, 1997 (<http://www.nhes.com/FT/features.html>). It is also a view which has been embraced by Wilfrid Beckerman. See Beckerman, *Small is Stupid: Blowing the Whistle on the Greens*, London, Duckworth, 1995, pp.88ff.

be unsound. However, it is an unsettling fact that, while the IPCC take it largely for granted that climate change raises ethical questions of unparalleled importance, there have been few systematic attempts to test the robustness of premise 2 either (a) across different theories of distributive ethics or (b) in the light of some perplexing problems associated with extending the scope of these theories to cover issues of intergenerational distribution.¹⁴

Regarding issue (a), I attempt to address this gap in the literature in Chapter 2 of the thesis, where I argue that climate change does indeed raise peculiarly important questions for a representative sample of theories of the ethics of distribution. Regarding issue (b), a little more preliminary comment is required. It appears to be the conviction of many that human activities which compound the climate change problem are unjust, or unethical, in virtue of *harming* generations yet unborn. Onora O'Neill, for example, writes that 'by burning fossil fuels prodigally we accelerate the green-house effect and may dramatically harm successors, who can do nothing to us.'¹⁵ However, as I hope to demonstrate in later chapters, there are certain difficulties in explaining exactly how our successors can be harmed by acts or policies which are necessary conditions of their coming into existence.¹⁶ Nevertheless, a key finding of the thesis is that the problem which this observation raises for the intergenerational extension of the concept of harm is soluble.

¹⁴ Two exceptions in this regard are the following: John Broome, *Counting the Cost of Global Warming*, Cambridge, The White Horse Press, 1992; and Thomas Hurka, 'Ethical Principles', in Harold Coward and Thomas Hurka, eds., *Ethics and Climate Change: the Greenhouse Effect*, Calgary, Wilfrid Laurier University Press, 1993, pp.23-38.

¹⁵ Onora O'Neill, *Towards Justice and Virtue*, Cambridge, Cambridge University Press, 1996, p.115.

¹⁶ See Derek Parfit, *Reasons and Persons*, Oxford, Clarendon, 1984, pp.351ff.

On the other hand, even supposing that future persons can be harmed by actions or policies undertaken before they exist, some suggest that the lack of mutual benefit, or reciprocity, which characterises dealings between members of different generations undermines the claims of future persons to resources currently at the disposal of existing persons.¹⁷ This is because there exists a close connection between the scope of norms of distributive ethics and the notion of reciprocity. In this respect, it is claimed, problems with the notion of intergenerational ethics mirror fairly closely some of those facing the notion of international ethics.¹⁸ Nevertheless, a key finding of the thesis is that even theories of distribution which appeal to notions of reciprocity give rise to norms of intergenerational ethical responsibility.

It is worth noting that, because I spend most of my time clarifying, and attacking, various objections which might be raised to premises 1 and 2, the bulk of the defence I provide of the existence of requirements of intergenerational distributive ethics, and their application to climate change issues, is a peculiarly indirect one. I set out with the deliberate intention to show that none of the objections to the argument outlined roughly above are sound, rather than to provide a new theory of intergenerational distribution as such.

However, during the course of the discussion it will also be necessary to introduce and examine some positive principles of intergenerational ethics, and one of my main findings is that the partial success or application of these principles suggests that

¹⁷ For discussion see Brian Barry, 'Justice as Reciprocity', *Democracy, Power and Justice*, Oxford, Clarendon, 1989, pp.483ff - and chapters 3 and 4 below.

¹⁸ For a discussion of the connection between problems of intergenerational and international justice, see Brian Barry, *A Treatise of Social Justice: Theories of Justice*, London, Harvester-Wheatsheaf, 1989, pp.183ff.

intergenerational ethics does not admit of a tidy theoretical solution. That is, it seems unlikely that a single distributive ideal could ever provide the basis for a complete explanation of all of the responsibilities we have to future generations which concern the benefits and burdens our actions foist upon them. In short, while I hope to provide in parts a direct and indirect defence of the view that climate change does raise questions of distributive significance, I also find irresistible the view that there are multiple, at times conflicting, sources of intergenerational obligation.

In order to construct a manageable context for my investigation of the IPCC's ethical stance, and of the line of argument described briefly above, I will be helping myself to three *methodological* assumptions, two of which are taken from the writings of John Rawls. While these assumptions are not beyond criticism, they appear to combine to offer the most obvious, and I think clearest, methodological basis in which to study questions of intergenerational distributive ethics. The first concerns the merits of viewing intergenerational distributive issues in terms of what might be called the assumption of *extensionality*, the second concerns the merits of adopting the method of *reflective equilibrium*, and the third concerns the merits of appealing to a restricted range of *hypothetical*, rather than *imaginary*, examples.

In what remains of this introductory chapter, I briefly outline these assumptions and the role they play in the thesis. I then provide a chapter by chapter outline of the thesis. Finally, I provide a review of recent research in climate change, focusing on the way in which such change will influence the distribution of many benefits and burdens across both nations and generations.

2. Three Methodological Assumptions

According to what I call the *assumption of extensionality*, the most appropriate way in which to approach questions of intergenerational distribution is to investigate the extent to which theories of distributive ethics which serve us well when looking at dealings between contemporaries can be extended to cover dealings between non-contemporaries. One writer who holds that issues of distributive ethics between both *generations* and *nations* are best approached as ‘problems of extension’ is John Rawls. In *Political Liberalism*, Rawls writes that the problem of distributive ethics

concerns the basic structure as a closed background system. . . If we are successful in the case of a [single] society, we can try to extend and to adjust our initial theory as further inquiry requires.¹⁹

Elsewhere, Rawls adds that

the problem of the law of peoples is only one of several problems of extension for these ideas of justice. There is the additional problem of extending these ideas to future generations, under which falls the problem of just savings.²⁰

Obviously there are many theories of *intragenerational* distribution which one might attempt to extend in this way - theories of distributive equality, priority, and sufficiency to mention but three. As I hope to show in the chapters that follow, there are several problems which face those who wish to extend such theories. However,

¹⁹ Rawls, *Political Liberalism*, New York, Columbia University Press, p.272. It is worth mentioning that Rawls generally speaks of problems of ‘distributive justice’ rather than problems of ‘distributive ethics’, but I assume here that the two ideas are interchangeable.

²⁰ Rawls, ‘The Law of Peoples’, in Susan Hurley and Stephen Shute, eds., *On Human Rights*, New York, Basic Books, 1993, p. 44.

none of these, I will argue, seems to present an insurmountable challenge for those who wish to adopt the Rawlsian strategy of extension in this context.

According to my second methodological assumption, a cogent theory of intergenerational distributive ethics must cohere with *at least some* of our most deeply held convictions about intergenerational ethical responsibility. This is not to say, however, that the methodological strategy of the thesis will be to engage in what has been referred to disparagingly as ‘piece-meal appeal to intuition’²¹ - that the theories considered will be tested solely according to the extent to which they reflect peoples’ ethical intuitions. However, it does mean that I seek to *take intuitions seriously* in the thesis. There are a number of ways in which peoples’ intuitions about distributive ethics might be taken seriously in a project of this nature, but perhaps the most obvious, and I think useful, is captured by the notion of ‘reflective equilibrium.’

The notion of reflective equilibrium was introduced to normative ethics by Rawls.²² In *A Theory of Justice*, Rawls addresses the issue of how we might best characterise the relation between our common-sense beliefs and our ethical or political theories. Do the former stand in need of the latter for their justification? Or is the acceptability of these beliefs constrained by considerations of theory? Or is the justifiability of ethics constrained in some way by our considered common-sense beliefs? Rawls suggests that, rather than privileging either side of the equation, we should endeavour to find a balance, or equilibrium, between pre-theoretical and theoretical ethical beliefs. The basic procedure for doing this is as follows. First, we start with our most

²¹ See James Griffin, *Value Judgement*, Oxford, Oxford University Press, 1996, pp.3ff.

²² See Rawls, *A Theory of Justice*, Cambridge (Massachusetts), Harvard University Press, 1971, pp.20ff and pp.48ff.

considered pre-theoretical beliefs about an ethical issue (for example, intergenerational ethical responsibility) purged of basic inconsistencies. Second, we attempt to construct a theory that will explain and give unity to these beliefs. Third, we ask whether this theory implies that we ought to change or modify some of our pre-theoretical beliefs. Fourth, and depending on our answer to this question, we have basically two options: (a) to return to theory and tinker with it until it delivers the right results or (b) to give up some elements of the common-sense position.

Whether we choose (a) or (b), Rawls thinks, depends on the circumstances of the case. If the theory is particularly attractive and any modifications to it appear arbitrary, then we may decide to reject common sense (an approach which we might refer to as 'biting the bullet'). This is an attractive move if we can give a good explanation of why the common-sense view is obviously unsound which is independent of the theory we give. If, however, the common-sense view is very firmly held, then we might wish to modify the theory. Basically, the overall aim is to reach a point which we are, on balance, satisfied; where we have reached a 'reflective equilibrium' between common-sense beliefs about particular practices and our best candidate ethical theory.²³

The method of reflective equilibrium appears to be particularly well suited to issues of intergenerational and climate change ethics as (1) discussions of climate change issues, as well as issues of environmental responsibility in general, are well rooted in both the media and in public life more generally, and (2) the issue of intergenerational

²³ Griffin describes the procedure here as being one of 'going back and forth between intuitions about fairly specific situations on the one side and the fairly general principles that we use to try to make sense of our moral practice on the other, adjusting both, until eventually we bring them all into coherence' (*Value Judgement*, p.9).

responsibility is not one which fails to generate intuitions on the part of the general populace. On the contrary, most people have quite deeply held convictions about the ethics of despoiling the environment, or of running up huge national debts, or of failing to bequeath some cultural and artistic heritage for the sake of future generations. As demonstrated above, a cursory trawl through the broadsheets reveals that both the findings of the IPCC, as well as more abstract commitments to the idea of intergenerational ethical responsibility made by politicians such as Tony Blair, have generated a great deal of media coverage. This does not imply that peoples' convictions about climate change ethics should be viewed uncritically, for the nature of reflective equilibrium as an approach to applied ethical issues is that of balancing a sensitivity to both peoples' intuitions with the fact that these intuitions often need to be revised in the light of fresh ethical, or indeed empirical, findings. However, it does suggest that an approach to intergenerational ethics which takes such intuitions seriously will have a rich vein of intuitions to draw upon.

According to my third methodological assumption, while a coherent approach to issues of intergenerational ethics requires extensive appeal to *hypothetical* examples (which, for example, attempt to tease out our convictions about the merits of climate change policies which will have differential impacts on the quality of life of future human populations), it should as far as possible avoid any appeal to *imaginary* examples. As Dale Jamieson has argued recently, the difference between these two sets of examples is somewhat difficult to draw, but it is important as the intuitions teased out by philosophical appeals to imaginary examples appear to be somewhat more problematic than those teased out by appeals to hypothetical examples -

imaginary examples, according to Jamieson, are those which 'involve logical possibilities that could occur only in a world very different from ours.'²⁴

Consider the series of imaginary science fiction examples which involve people being 'tele-transported' from one planet to another, and which are discussed by Derek Parfit in his book *Reasons and Persons*.²⁵ Parfit thinks that, by appealing to peoples' intuitions about such examples, we can make progress in our characterisation of personal identity and its importance. One problem with Parfit's methodological strategy is that even if people entertain clear and deeply held convictions about whether being tele-transported would involve the termination of their identity, it might be doubted that such convictions can be used to explain, and give unity to, the beliefs they hold about personal identity in less schematic, and more mundane, contexts. The idea is that the imaginary case and the actual case here are not relevantly similar to the point that any important insight can be drawn from our teasing out of peoples' convictions in the light of the former.

When we turn to hypothetical examples, however, these problems seem at the very least less problematic. Jamieson describes hypothetical examples as being those which 'involve instances of situations or events that have occurred, or could occur without requiring us to rewrite physics or change our basic conception of how the world works.'²⁶ Such examples seem much less prone to the objection that the set of circumstances that they describe are so dissimilar to those of the real world that our convictions cannot be transposed between these cases. Fortunately for the purposes of

²⁴ Dale Jamieson, 'Method and Moral Theory', in Peter Singer, ed., *A Companion to Ethics*, Oxford, Blackwell, 1996, p.484.

²⁵ Parfit, *Reasons and Persons*, pp.200ff.

²⁶ Jamieson, 'Method and Moral Theory', p.484.

the thesis, the range and depth of empirical evidence concerning climate change and the way in which it will impact upon the quality of life experienced by future human populations paves the way for a consideration of hypothetical examples without deviating from plausible, and scientifically grounded, assumptions about the world.

3. Outline of Thesis

The thesis is divided into two parts. The first part, comprising the remainder of this chapter and chapter two, attempts to set out the strongest possible case for the view, endorsed by the IPCC, that climate change raises peculiarly important questions of intergenerational distribution. In section 4 of this chapter, I review recent empirical research into the science of climate change, as well as the evidence amassed for the view that climate change will impact significantly on the way in which benefits and burdens are distributed across existing and future generations, albeit in a way which cannot be predicted with great accuracy. The idea here is that the assumption that climate change will impact upon the distribution of benefits and burdens across generations (premise 1 of the argument considered above) requires investigation, particularly as some enthusiasts of economic growth deny that failure to do something about increasing levels of GHG emissions will endanger the quality of life bequeathed to our remote descendants.²⁷

In chapter two, I go on to argue that the predominantly adverse effects of climate change on the quality of life of future persons are cause for concern for a representative sample of theories of distributive ethics. That is, the long-term effects

²⁷ See Wilfrid Beckerman, *Small is Stupid: Blowing the Whistle on the Greens*, pp.90ff.

of climate change pose questions of intergenerational distributive ethics which are *robust* across many theories of distribution, on the assumption, that is, that we seek to extend these theories in the manner in which Rawls suggests. The bulk of my comments here will be targeted towards theories of distributive *equality*, *priority*, and *sufficiency* - although I will also discuss in less detail communitarian and libertarian theories.

The second part of the thesis contains an extended discussion of two especially problematic issues for those who seek to extend familiar distributive theories across generations, namely, the issues of *Non-Reciprocity* and *Non-Identity*. A number of writers have appealed to these two issues in order to defend the thought that *no*, or at least *no plausible*, distributive theories can be extended beyond the immediate future - in effect a denial of premise 2 of the above argument - so a detailed analysis of them seems crucial for any thorough evaluation of the IPCC's ethical claims.

I deal with the issue of Non-Reciprocity in chapters 3 and 4. In Chapter 3, I outline the claim that the lack of direct reciprocity, or mutually beneficial interaction, evident in dealings between non-contemporaries undermines the intergenerational extension of distributive ethics - a claim which gives rise to what I call the *Non-Reciprocity Problem*. In later sections of Chapter 3, and in the whole of Chapter 4, I go on to discuss several considerations which challenge the force of this problem. In Chapter 3, for example, I argue that even if we accept the controversial claim that there exists a tight connection between the notion of reciprocity and the scope of distributive ethics, dealings between persons belonging to different generations are subject to an indirect form of reciprocity which is sufficient to solve the Non-Reciprocity Problem.

Also in Chapter 3, I consider some considerations which tend to undermine the view that there is a tight connection between reciprocity and the scope of distributive ethics. In Chapter 4, I attempt to defend the notion of posthumous harms from certain objections, and go on to suggest that this notion seems to support the view that there may be some degree of *direct* reciprocity evident in dealings between persons belonging to different generations after all.

The issue of Non-Identity is dealt with in chapters 5 and 6. In Chapter 5, I outline the argument that the dependence of future individuals' identities on the behaviour of their ancestors renders implausible the idea that existing persons can behave wrongly by damaging the environment which future persons will one day inherit from them (for example, by adopting public policies which enhance the greenhouse effect). In this chapter I also outline one response to what has been called the *Non-Identity Problem*, a response which is grounded in the notions of specific interests and rights. However, I argue that the appeal to such interests and rights is not a robust solution to the Non-Identity Problem.

In chapter 6, I take a more detailed look at another response to the Non-Identity Problem, which focuses on the way in which environmentally damaging policies, even if they result in no existing or future individuals being harmed, could be expected to harm certain future collectivities. It is suggested that a limited range of obligations of intergenerational distributive ethics could be grounded in the claims which these collectivities have to goods required to enable them to survive and flourish in the future. However, it also suggests that the most coherent basis for intergenerational distributive ethics lies in the endorsement of a quite controversial

meta-ethical claim, namely, that acts or policies (for example, climate change policies) can violate the requirements of distributive ethics even if they harm no particular existing or future persons.

Finally, in Chapter 7, I present a brief summary and restatement of the argument, and outline some implications which I think it has for both the way in which we should regard recent attempts to create legally binding protocols designed to achieve reductions in global GHG emissions.

4. A Review of Recent Research on Climate Change

In the following, I review some of the most recent research on climate change, and the impacts which it is expected to have on the quality of life enjoyed by future human populations. I have in mind two aims in providing the review. First, to demonstrate that climate change informed discussions of intergenerational ethics do not merely raise questions which are philosophically fascinating, they also concern urgent practical challenges which will almost certainly confront humanity during the decades and centuries to come. Second, to provide valuable background information with respect to the hypothetical examples which I will refer to in later chapters of the thesis devoted to the problems of *Non-Reciprocity* and *Non-Identity*.

4.1 The Science of Climate Change

4.1.1 The Natural Greenhouse Effect

Energy is radiated from the sun mainly in the visible, short-wave, part of the spectrum. Much of this energy reaches the Earth, apart from a small amount which is

reflected back into space, with the result that the surface of the Earth is warmed. The energy which reaches the earth's surface is redistributed throughout the atmosphere (notably by the processes of atmospheric and oceanic circulation) and ultimately much of it is radiated back into space at longer wavelengths. In equilibrium, the amount of energy which the earth's surface receives from the sun is balanced by the amount of energy radiated back into space, although this outgoing energy is radiated at a much lower temperature. Any disturbance in the amount of radiation received from the sun and/or the amount of energy which is retained in the earth's atmosphere will bring about a change in the total energy available in the earth's atmosphere, such changes being known as *radiative forcings*.²⁸

One factor which has altered the balance of incoming and outgoing radiation in the past, and which has caused a *positive* radiative forcing, is the accumulation of naturally occurring GHGs in the atmosphere. When present in the atmosphere at sufficient concentrations, GHGs, such as carbon dioxide (CO₂) or water vapour, reduce the efficiency by which the Earth cools to space by absorbing outgoing radiation at certain wavelengths. The radiation trapped by the absorptive properties of CO₂ and water vapour warms the lower part of the earth's atmosphere, the *troposphere*, and as a result the warmed air radiates energy in all directions, keeping the Earth warmer than otherwise would be the case (at present, about 15°C averaged out). The remainder of the tropospheric radiation subsequently leaks out into higher and higher levels of the atmosphere, ultimately escaping into space.

²⁸ See IPCC, 1996a, pp.13-14; and pp.108-118.

In simple terms, the process just explained is the *natural greenhouse effect*. In the absence of this effect, the Earth would be expected to have a similar surface temperature to the moon (i.e. an inhospitable -18°C).

4.1.2 The Enhanced Greenhouse Effect

Human activities which increase the concentrations of water vapour and CO_2 , as well as other GHGs, also have the effect of reducing the efficiency with which the Earth cools to space. Since the beginning of the industrial revolution, concentrations of human-originating GHGs in the atmosphere have been increasing at various rates, predominantly as a result of various industrial and agricultural practices.²⁹ The current and pre-industrial levels of a sample of these gases are included in Table 1 (on the next page).

As Table 1 shows, the concentration of CO_2 in the atmosphere has increased from 280 ppmv in pre-industrial times to 358 ppmv in 1994, and the IPCC claim that there is 'no doubt that this increase is largely due to human activities, in particular fossil fuel combustion.'³⁰ While atmospheric CO_2 concentrations are believed to be responsible for the bulk of the human originating, or *anthropogenic*, radiative forcing witnessed over the course of the twentieth century, the IPCC points out that the importance of other GHGs ought not be underestimated - particularly since these gases are much

²⁹ See J. Alcamo et al, 'An evaluation of the IPCC IS92 Emissions Scenarios', in J.T. Houghton, L.G. Meira Filho, J. Bruce, H. Lee, B.A. Callander, E. Haites, N. Harris and K. Maskell, eds., *Climate Change 1994: Radiative Forcing of Climate Change and an Evaluation of the IPCC IS92 Emissions Scenarios*, Cambridge, Cambridge University Press (hereafter IPCC, 1994); see also IPCC, 1996a, p.78.

³⁰ IPCC, 1996, pp.14ff.

more efficient at inducing climatic change than CO₂, and their combined climatic impact relative to CO₂ is increasing sharply.³¹

TABLE 1: Current and Pre-Industrial Concentrations of Greenhouse Gases³²

Greenhouse Gas	Pre-Industrial Atmospheric Concentration	1994 Atmospheric Concentration	Atmospheric Lifetime (in years)
Carbon Dioxide	280ppmv	358ppmv	50-200
Methane (CH ₄)	700ppbv	1720ppbv	12-120
Molecular Nitrogen (N ₂)	275ppbv	312ppbv	50
Trichlorofluoromethane (CFC-11)	n/a	268pptv	12
Chlorodifluoromethane (HCFC-22)	n/a	110pptv	12
Perfluoromethane (CF ₄)	n/a	72pptv	50,000

A key finding of the IPCC's 1996 Second Assessment Report is that the build up of human-originating GHGs in the atmosphere has already caused a small, but noticeable, warming of the earth's atmosphere. The IPCC observe that the warming witnessed in this century 'is unlikely to be entirely natural in origin [and] the balance of evidence suggests that there is a discernible human influence on global climate.'³³

³¹ IPCCa, 1996, pp.15-23.

³² Source: IPCCa, 1996, p.15.

³³ IPCC, 1996, p.6.

This finding, more than any other, has attracted the widespread attention of the media, public, and interest groups which represent the extremes of the climate change issue. This is an especially important finding as some writers have suggested that unequal distributions of benefits and burdens which arise naturally - that is, not as a consequence of human action - may not raise questions of distributive ethics.³⁴ As Temkin has argued recently, those who subscribe to this view 'may not only be unconcerned about "natural" inequalities within societies - say, between the blind and the sighted - they may be unconcerned about the "natural" inequalities between rich and poor countries, or between present generations and past and future ones.'³⁵

It is also worth noting, however, that the IPCC's findings in this regard, as well as the climate models which are used to support them, are one of the main targets of the climate change sceptics. The problem, argue the sceptics, is that they do not appear to explain why temperature increases at the ground level in the past twenty years or so have not been accompanied by a similar warming of the atmosphere.³⁶ For the student of climate change ethics, however, much of this dispute is of limited relevance.

Very few sceptics, for example, deny the existence of climate change altogether, or that climate change will impact *to some extent* on the distribution of benefits and burdens across generations. Rather, they emphasize that the warming will be less marked than suggested by the IPCC (with a doubling of CO₂ in the atmosphere raising average temperatures by between 1 and 1.5°C - a figure towards the bottom

³⁴ See Robert Nozick, *Anarchy, State, and Utopia*, New York, Basic Books, 1974, Ch.7.

³⁵ Larry Temkin, 'Justice and Equality: Some Questions About Scope', in Ellen Frankel Paul, Fred Miller, and Jeffrey Paul, eds., *The Just Society*, Cambridge, Cambridge University Press, 1995, p.76.

³⁶ Indeed, some researchers have claimed that the lower atmosphere, the *troposphere*, has actually cooled in recent years. See Fred Pearce, 'Greenhouse Wars', p.43.

end of the IPCC's predictions) and that climate change will bring about many more beneficial effects on future human populations than are currently admitted by the IPCC (such as decreasing winter mortality and morbidity). Thus while Patrick Michaels (a leading sceptic) has remarked in an interview with *New Scientist* that 'you can't make a case for a global apocalypse out of a 1.5°C warming', even the changes in climate predicted by the sceptics are consistent with the claim that climate change raises important questions of intergenerational distribution, for a 1.5°C warming will certainly impact on the health, welfare, and quality of life of future human populations.³⁷

4.1.3 Three Important Findings

Beyond their endorsement of the enhanced greenhouse effect, the IPCC have made a number of important claims which are relevant to the problem of intergenerational climate change ethics. The most important of these are (a) that climate is expected to change in the future regardless of the actions of existing and future governments; (b) that uncertainties associated with predicting climate change do not imply that nothing should be done to reduce the threat of future climate change; and (c) that there are measures of mitigation and adaptation available by which the future costs of change could be reduced.³⁸ I briefly expand upon each of these claims below.

(a) In order to establish the magnitude of future climate changes, it is necessary to predict future atmospheric concentrations of both natural and anthropogenic GHGs. This requires careful determination, particularly as levels of anthropogenic GHG

³⁷ Pearce, 'Greenhouse Wars', p.43.

³⁸ IPCC, 1996a, pp.3-7.

emissions are susceptible to factors such as economic growth that are within human control. As part of its research into climate change, the IPCC has developed six 'emissions scenarios' in order for it to predict future levels of GHG emissions, and with them likely figures for global warming in the decades up to the year 2100.³⁹

These scenarios covered all the major GHGs, and each one incorporates different assumptions about rates of increase in world population, economic growth, and success of existing attempts to limit GHG emissions by certain international agreements. The assumptions adopted by three of the six scenarios developed by the IPCC are particularly interesting. The three serve as the scenarios which proffer the largest, smallest, and mid-range predictions for radiative forcing, global warming, and sea-level rises over the next century. The IPCC's projections for these three scenarios are contained in Table 2 (on the next page).⁴⁰ From the ethical point of view, the IPCC's projections of future global warming and sea-level rises *on all scenarios* provides the core scientific basis for the proposition that increasing GHG concentrations will influence the distribution of benefits across many generations.

(b) The IPCC admits that there are numerous limits on their ability to predict the nature and limits of future climate change. They mention three particular areas where future research is essential if the biggest uncertainties are to be removed or reduced.

³⁹ IPCC, 1994, pp.251ff; IPCC 1996a, pp.39ff.

⁴⁰ While atmospheric GHG concentrations are evenly distributed throughout the globe, localised differences in the nature of climate processes mean that the effects of both global warming and sea-level rises will vary from region to region. According to the latest Department of the Environment report into the effects of climate change, and on the assumption that no 'major global policies of reducing greenhouse gas emissions are enacted', temperatures over the United Kingdom are expected to rise at a rate of 0.2°C per decade, there will be an increase the frequency of very warm seasons, and annual rainfall will increase by around 10% by the year 2050 (M. L. Parry et al, *Review of the Potential effects of Climate Change in the United Kingdom*, London, HMSO Books, 1996, p4.

First, the projection of future emissions of GHGs and other relevant anthropogenically produced agents (e.g. aerosols). Second, the representation of climate processes in climate change models (e.g. so called ‘feedback’ processes). Third, the collection of climate change data (e.g. solar output).

TABLE 2: IPCC Projections for Future Climate Change⁴¹

Climate Scenario	Projected CO ₂ Emissions 1991-2100 (Gigatonnes of Carbon (GtC))	Projected Global Air Surface Temperature Increase 1991-2100	Projected Global Sea-Level Rise 1991-2100
IS92c	770 GtC	1°C	15cm
IS92a	1500 GtC	2°C	50cm
IS92e	2190 GtC	3.5°C	95cm

The IPCC notes that ‘future unexpected, large and rapid climate system changes (as have occurred in the past) are, by their nature, difficult to project’, a consideration which it observes gives rise to the possibility of ‘surprises.’⁴² However, the IPCC at no stage argues that these uncertainties provide a justification for delaying actions designed to reduce the risks of climate change. On the contrary, it suggests that the present generation ought to insure themselves against the risk of bringing about detrimental future effects as a result of climate change. According to what they call

⁴¹ Source: IPCC, 1994, pp.261-2; IPCC, 1996a, pp.5-6.

⁴² IPCC, 1996a, p.7.

the *precautionary principle*, 'actions giving rise to *possible* but quantifiably unknown and potentially very large risks [ought to be] avoided or corrected.'⁴³

The IPCC's defence of the precautionary principle is of particular ethical importance because it runs counter to a claim which is made from time to time in the literature on intergenerational ethics, namely that our lack of knowledge about the long-term effects of our actions on future generations, for example as relating to the effects of emissions of GHGs, in some way diminishes our responsibilities to them.⁴⁴

(c) There would, perhaps, be little point in considering climate change as raising important ethical questions, either as relating to the extension of ethical principles across *time* or *space*, if little could be done to offset or reverse the bad effects it threatens for future quality of life. Fortunately, it would appear from the IPCC's research that there are several options available for governments, in particular, which would reduce, or reduce the threat of, these bad effects.

There are, broadly speaking, two separate categories of measures which the IPCC suggest might be undertaken here: measures of *avoidance* and measures of *adaptation*. Measures of avoidance, moreover, can be divided into two finer categories: measures which will increase the number or efficiency of *sinks* and measures which will reduce the number or efficiency of *sources* of GHGs. GHG sources are processes or activities (such as fossil fuel combustion) which *introduce* GHGs, or precursors of GHGs, into the atmosphere. GHG sinks, on the other hand,

⁴³ IPCC, 1996c, p.185. For a critical discussion of this principle, see Beckerman, *Small is Stupid*, pp.88-103.

⁴⁴ For a critical discussion of this claim, see Val and Richard Routley, 'Nuclear Energy and Obligations to the Future', *Inquiry*, 21, 1978, pp.149ff.

are processes, activities or mechanisms (such as plant life or the oceans) which *absorb* certain GHGs so that they play no further role in warming the atmosphere.⁴⁵

The IPCC claims that reductions in atmospheric GHG concentrations could in fact be achieved by both reducing the climatological impact of sources, and increasing the impact of sinks. For example, measures could be adopted to increase energy efficiency in both the industrial and domestic sectors; transport practices might be altered; and more efficient land management practices could be adopted. Moreover, many of these measures, according to the IPCC, would have benefits which would equal or exceed their costs, quite apart from the way in which they would be expected to mitigate the threat of climate change.⁴⁶

4.2 Climate Change and Human Population Health

The health of human populations - both presently existing and those yet unborn - depends upon the maintained integrity of a variety of physical systems (such as weather patterns) as well as that of ecosystems (such as agricultural ecosystems). Shifts in the conditions which determine the integrity of these systems brought about by climate change, therefore, pose a potential threat to the health of human populations. While there is a considerable amount of uncertainty associated with predicting the future human health implications of climate change - particularly in the longer-term - the IPCC's Second Assessment Report defends three key findings relating to the likely health impacts of climate change. First, it argues that the

⁴⁵ See *United Nations Framework Convention on Climate Change*, p.5.

⁴⁶ The IPCC describes these as 'no regrets' measures, or measures 'which are worth doing anyway.' See IPCC, 1996c, p.5, p.15n.

cumulative impacts of climate change on human health will be, on balance, extensive and adverse.⁴⁷ Second, it argues that climate change will often impact upon human health through *indirect* and *non-immediate* pathways.⁴⁸ Third, it is argued that the indirect impacts of climate change will predominate over the direct impacts on the assumption that climatic changes continue in the longer-term.⁴⁹

The IPCC refers to a number of consequences regarding the likely effect of climate change on human health. Perhaps the most notable of these were those regarding which the IPCC predicted would occur with a *high degree of confidence*. According to the IPCC's definition, such findings were those denoted by a 'wide agreement, based on multiple findings through multiple lines of investigation.'⁵⁰ Three human health related impacts of climate change which the IPCC predicted with the highest degree of confidence were (a) increases in deaths as a result of increases in frequency in *extreme weather events*, (b) increases in mortality and illness following increases in the frequency or severity of *heat stress*, and (c) increases in potential transmission area of various *biological disease agents*.

I discuss each of these potential health impacts in brief below.⁵¹

⁴⁷ See A. J. McMichael et al, 'Human Population Health', in IPCCb, pp.561-84.

⁴⁸ According to the IPCC, *direct* impacts are those which 'result from changes in climate characteristics or short-term weather extremes that impinge directly on human biology', such as those connected with thermal stress and extreme weather events. By contrast, *indirect* impacts will be those that 'do not entail a direct causal connection between a climatic factor (such as heat, humidity, or extreme weather event) and human biology', such as those connected with air pollution (see IPCC, 1996b, pp.568ff).

⁴⁹ IPCC, 1996b, p.563.

⁵⁰ IPCC, 1996b, p.x.

⁵¹ While I do not discuss the possible *beneficial* impacts of climate change on human health, it does seem likely that there will be some of these - one example being decreases in cold-related deaths in winter months in the countries of Northern Europe. I assume that providing evidence for the likely *negative* impacts of unchecked climate change is sufficient in itself to demonstrate that important questions of intergenerational distribution are posed by climate change and climate change policies.

4.2.1 Extreme Weather Events

Extreme weather events have been defined recently as ‘infrequent meteorological events that have a significant impact upon a society or ecosystem at a particular location.’⁵² Such events can occur suddenly (as in the case of floods or cyclones) or more gradually (as in the case of droughts). Climate change is expected to lead to a rise in the frequency of extreme weather events such as floods, droughts, forest fires, wind storms, and tropical cyclones, in virtue of its impact upon the variability of weather conditions as well as mean climate. The IPCC claims that if the number of extreme weather events increases, ‘deaths, injuries, stress-related disorders and the many adverse health effects associated with the social disruption, enforced migration and settlement that these events entail, would also increase.’⁵³ While it seems clear that certain populations will be particularly vulnerable to these phenomena (such as impoverished island-based societies and developing nations more generally), industrialised countries will also be at risk. Parry et al suggest, for example, that climate change will prompt an increase in the frequency and intensity of storms, high winds, and river flooding and would be expected to have a variety of, largely negative, effects on human health in the United Kingdom.⁵⁴

Consider the example of floods. Floods are caused by one or a combination of three events, and all of these are influenced by climate variables.⁵⁵ First, when there is a sudden increase in rainfall in a vulnerable location. Second, when there has been a

⁵² A.J. McMichael, A. Haines, R. Slooff and S. Kovats, eds., *Climate Change and Human Health*, Geneva, World Health Organisation, 1996, p.123.

⁵³ *Climate Change and Human Health*, p.123; see also IPCC, 1996b, pp.570-1.

⁵⁴ See Parry et al, *Review of the Potential effects of Climate Change in the United Kingdom*, pp.192-3.

⁵⁵ See McMichael et al, *Climate Change and Human Health*, pp.129-32; and pp.145ff.

sustained bout of rainfall culminating in soil saturation. Third, when there are rises in sea-levels in coastal areas for reasons unconnected to rainfall events (for example, as a result of oceanic thermal expansion). The IPCC suggest that climate change will act so as to increase the frequency of all three of these events. It will, for example, affect the distribution and intensity of rainfall, bringing about an increase in the frequency of days where heavy rainfall occurs. As noted above, it is also expected to bring about significant rises in global sea-levels solely as a result of oceanic thermal expansion.

An increase in the number, and intensity, of flood events would be expected to raise many of the same problems which large-scale flooding has in the past, though possibly on a greater scale. Countries with a history of flood damage would be particularly at risk. Bangladesh, for example, has already experienced one recent flood, in 1991, which killed an estimated 140,000 people. McMichael et al point out that most of the deaths and injuries caused by floods occur within a short space of time after the flood starts - the main cause of death during a flood being drowning.⁵⁶

However, floods take their toll on other aspects of human health. First, due to the problems associated with maintaining sanitation facilities in the aftermath of flooding, the incidence of infectious diseases often increases. Second, the nutritional status of flood victims (particularly the young and the elderly) is vulnerable in the aftermath of flooding. Third, by virtue of damaging containment facilities of toxic substances, flooding can lead to environmental pollution and subsequent human health problems, for example related to the contamination of food supplies with pesticides. Fourth, a number of studies have suggested that some of the most

⁵⁶ McMichael et al, *Climate Change and Human Health*, pp.130ff.

significant (and long-term) human health impacts of flooding relate to post-traumatic stress, and other psychological disorders.⁵⁷

Because of their localised, but massive, effects on human communities and the wherewithal they need to flourish, floods in the past have led to the complete destruction of some communities' ways of life. Unfortunately, very little research has been conducted on the *cultural* cost of floods which have resulted in the complete destruction of a community or set of communities - either with respect to island, or other low-lying, communities. However, I think we can assume that these costs would be very high indeed; how high would presumably depend on the view one takes of the value of communities.⁵⁸

4.2.2 Heat Stress

As noted above, one of the key features of climate change over the next century will be increases in global air surface temperature. Increases in air temperature will be accompanied by an increase in the frequency of very hot days, as well as moderately warmer seasons, years, and decades. Extremes of heat are a well known cause of physiological stress and death. They are known, for example, to cause damage to internal organs and exacerbate cardiorespiratory and cardiovascular diseases in humans, as well as causing accident rates to rise.⁵⁹

⁵⁷ See McMichael et al, *Climate Change and Human Health*, pp.139-41.

⁵⁸ For more on this issue, see chapter 6 below.

⁵⁹ The incidence of heat-related deaths and illnesses is also known to be affected by socio-economic factors, such as class background and ethnicity. Thus, climate change is expected to bear hardest, in terms of its heat stress producing impacts, on ethnic minorities, and those who already suffer from deprivation, such as the poorly housed or nourished, and this accounts for one of the reasons why the relationship between the issues of social exclusion and climate change is generating considerable interest from policy-makers and academics.

It is in this context that McMichael et al observe that one 'near certain outcome of climate change is an increase in heat related illnesses and deaths, particularly in response to episodes of stressful weather, such as heat waves.'⁶⁰ A partial offsetting factor in terms of the overall balance of heat-related deaths and illnesses which extremes of heat will bring to future populations lies in the consideration that mean temperature rises in winter should lead to a decline in cold-related illness and deaths during the winter months, although recent research suggests that increases in summer heat-related deaths will outweigh the decrease in winter cold-related deaths.⁶¹

4.2.3 Biological Disease Agents

Biological organisms and processes linked to the spread of infectious disease are sensitive to changes in climate variables such as temperature, rainfall and humidity.⁶² Climate change, therefore, could be expected to cause widespread, if uncertain, shifts in the pattern of both infectious disease agents, and the carriers of these diseases. Climate change could also be expected to affect the geographical distribution of diseases whose transmission is not vector-based, but food or water-borne.⁶³ This is because temperature, in particular, is an important influencing factor in the lifetime and reproductive behaviour of infectious agents in general terms. In their analysis of the problem of climate change induced changes in the pattern of both vector-, and non vector-, borne diseases, McMichael et al conclude that the 'available evidence and

⁶⁰ McMichael et al, *Climate Change and Human Health*, p.50.

⁶¹ McMichael et al, *Climate Change and Human Health*, pp.53-4.

⁶² McMichael et al, *Climate Change and Human Health*, pp.71ff.

⁶³ IPCC, 1996b, pp.576-7; McMichael et al, *Climate Change and Human Health*, pp.96-104.

climate change evidence models indicate that climate change will alter the pattern of the world's infectious diseases.'⁶⁴

One particularly grave cause for concern is the impact which climate change will have on *malarial transmission*. Infections of malaria are caused by several distinct species of parasite, each of which possesses different reproductive and physiological properties, and therefore vulnerabilities. There are also several different species of mosquito which act as carriers, or *vectors*, for the disease - some of which appear to flourish and reproduce only where air temperature reaches a certain level (often where it is 16°C or more). Above these levels, small increases in temperature accelerate parasitic development inside the mosquito.⁶⁵

Recent research suggests that approximately one in twenty of the world's population is currently infected by malaria, with 300 million new cases arising annually. The disease accounts for more than 2 million deaths annually, most of which are located in the developing world.⁶⁶ However, a global warming of just a couple of degrees would be expected to result in an increased survival rate in various species of mosquito in temperate areas. As a result, McMichael et al conclude that it is 'highly likely' that the geographical distribution of malaria infection will be altered by climate change, and that the change would result in both a rise in annual malaria related deaths, and the widening of the potential malarial transmission zone.⁶⁷ While it is not expected that malaria will return to the UK in the near future, Parry et al conclude that wetter, as well as warmer, weather conditions will bring about a change

⁶⁴ McMichael et al, *Climate Change and Human Health*, p.105.

⁶⁵ IPCC, 1996b, pp.571-2.

⁶⁶ McMichael et al, *Climate Change and Human Health*, p.78.

⁶⁷ McMichael et al, *Climate Change and Human Health*, p.75 and pp.78ff.

in the distribution of non-malarial vectors (such as ticks or mites). Consequently, they also predict increases in the incidences of the diseases they carry.⁶⁸

4.3 Economic, Social, and Cultural Impacts of Climate Change

The IPCC's research on the social and economic impacts of climate change are principally co-ordinated and conducted by its Working Group III, the function of which is to 'assess cross-cutting economic and other issues related to climate change' and to conduct 'technical assessments of the socio-economics of impacts, adaptation, and mitigation of climate change over both the short and the long term and at the regional and global levels.'⁶⁹ Despite the many sources of uncertainty surrounding the assessment of the likely economic, social, and cultural impacts of climate change,⁷⁰ the IPCC suggest that it is likely that the world will experience at least *some* net loss in global economic output as a result of climate change, while the burden of this loss will be non-uniformly distributed across the countries, and populations, of the world. The IPCC predicts that the global impact of a doubling in CO₂ concentrations, for example, will be a net decline in global Gross Domestic product (GDP) of between 1.5 and 2%.⁷¹ The corresponding figures for the developed and the

⁶⁸ Parry et al, *Review of the Potential effects of Climate Change in the United Kingdom*, pp.193-4.

⁶⁹ IPCC, 1996c, p.ix, 5.

⁷⁰ The IPCC warns, for example, that the 'level of sophistication of climate change analysis is comparatively low' and that economic damage estimates are as a result 'generally tentative and based on several simplifying and often controversial assumptions' (see IPCC, 1996c, p.ix).

⁷¹ The term GDP is normally used with an individual country in mind, and refers to the total value of goods and services produced domestically by a nation during a given year. Consequently, global GDP consists of the total value of goods and services produced in the world by all nations during a given year.

developing worlds respectively of between 1 and 1.5%, and between 2 and 9%; and even more pronounced decreases are expected if climate change were to continue into the remote future - i.e. beyond a doubling of CO₂ concentrations.⁷²

The IPCC suggest that countries which possess a 'diversified industrial economy and an educated and flexible labour force' will suffer least from the economic affects of climate change, whereas countries which possess specialised, and natural resource-based, economies and 'a poorly developed and land-tied labour force' will be expected to fare much worse.⁷³ Developing countries, for example, are be expected to be hit much harder than developed countries. However, the IPCC do not rule out the possibility that certain populations will actually be net *beneficiaries* of climate change, and recent research suggests that the UK might be one country which benefits in some respects from the medium-term effects of climate change.⁷⁴

I discuss below the IPCC's research on the socio-economic impacts of climate change for a sample of the most vulnerable populations.

4.3.1 The Developing World - The Case of India

India would be expected to receive a significant increase in rainfall both inside and outside the monsoon season (i.e. June to September) given a doubling of CO₂ in the atmosphere and the radiative forcing which this would entail. The IPCC expect the intensity of monsoons to increase, with the result that agricultural yields for a number

⁷² See IPCC, 1996c, p.218.

⁷³ IPCC, 1996c, p.11.

⁷⁴ In their report, for example, Parry et al conclude that there will be beneficial effects for certain part of the forestry, agricultural, and tourist industries (*Review of the Potential effects of Climate Change in the United Kingdom*, pp.67ff).

of crops, such as rice and wheat, will be reduced. The country would also suffer a degree of land loss due to sea-level rises, with the estimated loss in GDP terms of 1% solely on the basis of these rises.⁷⁵

4.3.2 Coastal Zones - The Case of Bangladesh

Much of the land surface and population of Bangladesh is located coastally. Given a 45cm sea-level rise on the Bay of Bengal coastline, McMichael et al predict that up to 11% of the total land area of the country would be lost, while a one meter rise would submerge 20% of the total land surface area. A different study suggests that, in the absence of serious attempts to mitigate the effects of climate change, a rise in sea-level of one meter by 2050 'could result in a cumulative loss (in present value terms) equivalent to 1-2% of Bangladesh's current GDP', although the same study does present this finding as a 'worst-case scenario.'⁷⁶ It is also emphasised that population displacement could also be massive.⁷⁷

4.3.3 Small Island Societies

There are two considerations which place small islands most at risk from climate change induced sea-level rises. First, the fact that their small size prevents more than

⁷⁵ McMichael et al, *Climate Change and Human Health*, p.211.

⁷⁶ See J.M. Broadhaus 'Possible impacts of, and adjustments to, sea-level rise: the cases of Bangladesh and Egypt', in R.A. Warwick et al, *Climate and Sea Level Change*, Cambridge, Cambridge University Press, 1993, p.263.

⁷⁷ McMichael et al, *Climate Change and Human Health*, p.211. According to recent research, it is not possible to quantify the risk that climate change poses for low lying areas in the UK. However, Parry et al suggest that communities located along the Norfolk and Suffolk coast and around the Wash seem 'particularly vulnerable' to storm, flooding, and consequently soil erosion damage (see *Review of the Potential effects of Climate Change in the United Kingdom*, p. xx, pp.211ff).

a limited inland retreat and, second, the fact that the economies of these islands tend to be highly dependent on resources located coastally. The IPCC observes that, 'in global terms the population of small islands is relatively small, but a number of distinct societies and cultures are threatened with drastic changes in lifestyle and possibly forced abandonment from ancestral homelands if sea-level rises significantly.'⁷⁸ They go on to suggest that even the less-vulnerable small-islands would be expected to suffer from the loss of tourism and recreation trade.⁷⁹ In declining order of severity, it appears that the Small Island States of the South Pacific face complete disappearance, severe population displacement, or, at best, moderate costs of adjustment.⁸⁰

Attempting to put a socio-economic value on a community's entire annihilation, or the cost in terms of human misery of a community's experience of severe population displacement, is an appallingly difficult - if not impossible - task. A slightly easier task, perhaps, is to estimate the economic cost of the sort of coastal protection schemes which might forestall such developments, calculated in terms of the present GDP's of the coastal islands to which they would be applied. The IPCC give a number of such estimates, one of the most disconcerting of which concerns the case of the Marshall Islands. Here, measures to protect just the central, Majuro, atoll alone could cost between 1.5 and 3 times the country's present GDP.⁸¹

⁷⁸ IPCC, 1996b, p.310.

⁷⁹ IPCC, 1996b, p.310.

⁸⁰ See L. Bijlsma et al, 'Coastal Zones and Small Islands', in IPCC, 1996b, pp296-98; and E. Charles et al, *A Future for Small States: Overcoming Vulnerability*, London, Commonwealth Secretariat, 1997, pp.67ff.

⁸¹ IPCC, 1996b, p.213.

5. Summary

In this introductory chapter, I hope to have constructed a suitable framework in which to examine the issue of intergenerational distributive ethics, and have defended the view that global climate change, in virtue of threatening to bring about a range of changes in the natural, economic, and cultural environment, will greatly influence the distribution of benefits and burdens across generations. I also hope to have shown that the distributive consequences which are most ethically relevant to discussions of climate change ethics are those which involve countries, or populations, which are badly off already becoming even worse off in the future. In the next chapter I want to explore in greater depth the reasons why such changes matter from the ethical point of view.

Chapter 2: Climate Change and Distributive Ethics

1. Introduction

It was argued in the previous chapter that climate change threatens to bring about a number of changes in the natural, economic, and cultural environments which future generations will inherit from us, and that these changes will be sufficiently extensive to influence the overall distribution of benefits and burdens across generations. In this chapter, I want to discuss the relevance of these changes for some pre-eminent theories of *distributive ethics*, where I take distributive ethics to be concerned with the question of how scarce resources, and the benefits they confer, should be allocated in any given population consisting of members who have competing claims and needs. There is obviously a vast number of such theories in existence. So, in order to make the task of the chapter more tractable, I restrict my comments to two sets of such theories. The first set of theories I consider differ fundamentally in terms of the *aim* they mark out for our distributive concerns, and include theories of equality, priority, and sufficiency. The second set of theories differ fundamentally in terms of the *conception of advantage* which our distributive concerns should be developed in terms of, and include theories of resourcism, welfarism, and basic-capabilities.

It is worth noting that I do not set out, here, to resolve the issue of which of each set of theories is the most plausible embodiment of our distributive concerns (although I do observe that certain welfare egalitarian views seem quite implausible). Indeed, as Daniels has argued recently, it appears that a rounded view of such concerns would appeal to different aims, as well as different conceptions of advantage, in different

contexts.¹ For example, while we might appeal to the notion of giving priority to the worst off in contexts of distributions of resources within families, we might appeal to the notion of giving as many people enough resources to enable them to pursue the life-plans they affirm in the context of distribution within society as a whole. On the other hand, we might seek to equalise interpersonal welfare within the context of a single generation, while seeking to equalise resources between generations. What I do set out to show, however, is that there exists a broad convergence amongst the accounts of the aims of distributive ethics, and also amongst the various accounts of the conception of advantage with which these aims are pursued, that the findings of the IPCC outlined in the previous chapter are of genuine concern.

2. Intergenerational Equality

There are various understandings of equality in existence, but the understanding which is most intimately related to the concerns of distributive ethics is that of *equality of condition*. According to the notion of equality of condition, it would be better if resources were distributed so that everyone enjoyed the same level, or opportunity to enjoy the same level, of social and economic benefit. As such, equality of condition can be contrasted with the notion of *equality of democratic citizenship*, according to which it would be better from the ethical point of view if certain rights and freedoms of democratic citizenship were distributed on the basis of equality so that

¹ See Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice*, Cambridge, Cambridge University Press, 1996, p.208.

people can pursue their life plans without unnecessary interference from the government, social institutions, or other individuals.²

The notion of equality of condition has greatly exercised egalitarians and their critics in recent years. Part of the reason for this is that it is a notion which, as Arneson puts it, 'cries out for clarification.'³ For example, it is of crucial importance to distinguish between views which require that inequalities between persons be removed only insofar as these inequalities are undeserved (that is, they arise from actions or beliefs for which people are responsible) and views which require that inequalities should be removed even if they are deserved (that is, they result from actions or beliefs for which people are not responsible). We might call the former *equality of opportunity*, and the latter *equality of outcome*.

In any case, it is *equality of condition*, rather than equality of democratic citizenship, which seems to be the understanding of equality most relevant to an egalitarian evaluation of the IPCC's recent research findings, for while climate change may not impact significantly on the long-term ability of states to guarantee their members the equal rights and freedoms of democratic citizenship (although it may well do this), it will almost certainly have a significant impact on the way in which social and economic benefits are distributed within states - as well as between different generations.

One way in which we can seek to clarify the notion of equality of condition is by asking what metric (or currency) egalitarians should seek to equalise across persons.

² On the distinction between 'equality of condition' and 'equality of democratic citizenship', see Richard Arneson, 'Equality', in Robert Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy*, Oxford, Blackwell, 1993, p.489.

³ Arneson, 'Equality', p.490.

Thus, in his influential contribution to the literature on egalitarianism, Amartya Sen poses the question ‘Equality of What?’⁴ In what follows, I outline some key answers to Sen’s question, comment upon the way in which the different theories of equality of condition generated by each separate answer to it might be extended across generations, and seek to establish the extent to which each theory views the IPCC’s findings about the impacts of climate change as being matters of genuine ethical concern.

2.1 Equality of Welfare

Welfarism, as Sumner has put it recently, is the view that ‘welfare is the only value which an ethical theory need take seriously, ultimately and for its own sake.’⁵ Consequently, welfare egalitarianism (or equality of welfare) is the theory that resources should be distributed such that each person who falls within the scope of the theory experiences the same level of welfare.

For all the space that equality of welfare has taken up in recent work on theories of equality of condition (and their alternatives), equality of welfare has few contemporary exponents. However, one writer who has fairly recently embraced an equality of welfare view is Ted Honderich. Honderich suggests that resources should be distributed such that ‘we approach as close as we can, which may not be all that

⁴ Amartya Sen, ‘Equality of What?’, in his *Choice, Welfare and Measurement*, Oxford, Oxford University Press, 1982, p.353.

⁵ Wayne Sumner, *Welfare, Happiness and Ethics*, Oxford, Oxford University Press, 1996, p.3. Sen proposes a slightly different definition according to which, ‘welfarism is the view that the goodness of a state of affairs can be judged entirely by the goodness of the utility in that state’ (‘Equality of What?’, pp.358-9).

close, equality in satisfaction and distress',⁶ a distributive principle which has also been endorsed recently by left-wing egalitarian critics of current Labour party policy.⁷

The notion of welfare which Honderich is appealing to here requires some clarification. Dworkin, for example, claims that there are two main sets of welfare egalitarian theories which are grounded in two accounts of welfare itself, namely, *success-based theories* and *conscious-state theories*. Success-based theories of welfare hold that a person's welfare is some function of their success in having their preferences satisfied, and as a result equality of welfare as success will require 'distribution and transfer of resources until no further transfer can decrease the extent to which people differ in their success.'⁸ Conscious-state theories of welfare, by contrast, are those which hold that a person's welfare consists in the presence of certain advantageous conscious-states such as pleasure or contentment, and as a result equality of welfare as conscious-states will require that 'distribution should attempt to leave people as equal as possible in some aspect or quality of their conscious life.'⁹ Although Honderich's might be better thought of as a theory of equality of conscious-states, let us concentrate here on theories of equality of welfare as success (henceforward, equality of welfare).

⁶ Ted Honderich, *Three Essays on Political Violence*, Oxford, Blackwell, 1976, p.4. In fairness to Honderich, it should be noted that in later work he appears to endorse a theory of *giving priority to the worst off*, rather than *equality of condition* as such, and this later theory is not explicitly formulated in terms of welfare. According to what he nevertheless calls the *principle of equality*, the principal end of political morality is to 'give a priority to policies whose end is to make well-off those who are badly-off' (Honderich, *Violence for Equality*, London, Routledge, 1989, p.47).

⁷ See Roy Hattersley, 'Why I'm No Longer Loyal to Labour' (*The Guardian*, July 25 1997) and Gordon Brown's response 'Why Labour is Still Loyal to the Poor' (*The Guardian*, August 2 1997).

⁸ Dworkin, 'What is Equality? Part I: Equality of Welfare', *Philosophy and Public Affairs*, 10, 3, 1981, pp.191-2.

⁹ Dworkin, 'What is Equality? Part I: Equality of Welfare', pp.191-2.

On first inspection, equality of welfare would seem an ethical theory well suited to cover dealings between non-contemporaries. This is because acts or policies which will impact upon the integrity and health of the natural, economic, and cultural environments would also be expected to impact upon the preference-satisfaction of future human beings. Moreover, the idea that theories which only take the welfare of human beings seriously should as far as possible be neutral to considerations of both time and space seems well suited to welfarist thinking. In an early contribution to the literature on welfarism and intergenerational ethics, for example, Frank Ramsey argues that, when theorising about what we owe to future generations, we should not 'discount later enjoyments in comparison with earlier ones, a practice which is ethically indefensible and arises from the weakness of the imagination', and a similar view has also been defended by Henry Sidgwick.¹⁰

One problem with extending equality of welfare across generations, however, is the fact that environmental policies will affect not just the range of *resources* which future persons will possess, but also the range of the *preferences* they possess. Suppose that the IPCC's predictions regarding the consequences of climate change for both the climate system, and for future human health, prove to be accurate. Adaptations in the *preference base* of future persons which mitigate the possible negative impact of climate change on the welfare of future persons could be brought

¹⁰ See Frank Ramsey, 'A Mathematical Theory of Saving', *Economic Journal*, 38, 1928, p.543; and IPCC, 1996c, pp.136ff. Sidgwick writes that,

the time at which a man exists cannot affect the value of his happiness from a universal point of view. . . the interests of posterity must concern a Utilitarian as much as those of his contemporaries, except in so far as the effect of his actions on posterity - and even the existence of human beings to be affected - must necessarily be more uncertain (see Sidgwick, *Methods of Ethics*, London, Macmillan, p.381).

about in at least two ways. First, members of earlier generations might attempt quite consciously to manipulate the genetic make-up of their offspring in order that they be better able to flourish in an environment affected by climate change. Second, members of later generations might simply adapt their preferences in the absence of such conscious attempts of their ancestors, for example by learning not to desire so intensely access to clean air, or by learning to desire warmer temperatures more intensely.

If we could assume that the preferences which future persons will possess will be shaped in such a way that their ability to have their preferences satisfied is not compromised by the effects of climate change, it would seem that on the welfare egalitarian view no future individuals would be disadvantaged in terms of the levels of welfare they achieve relative to those achieved by members of previous generations. Consequently, even if equality of welfare could be extended to cover dealings between different generations in principle, the IPCC's research findings on the impacts of climate change would not necessarily be of import for this distributive theory *in practice*.

Fortunately, such a disquieting conclusion is not forced upon us, for equality of welfare, both applied to questions of distribution within and between generations, does not appear to be an attractive embodiment of equality of condition. I have space to mention only three of the main objections to equality of welfare: the *offensive tastes*, *expensive tastes* and *cheap tastes* objections.

According to the *offensive tastes objection*, equality of welfare is an implausible distributive theory in virtue of the way in which it requires us to distribute extra

resources to persons who experience less welfare than others due to entertaining *offensive tastes* which remain unfulfilled. Offensive tastes are those which require some person or section of the population to suffer discomfort or be discriminated against in order that they be fulfilled. Many think that these preferences should not be a factor in the distribution of resources. However, as Rawls points out, it is not clear how any welfarist account could be restricted so that only *inoffensive* preferences would be taken into account without abandoning the welfarist metric altogether. Social welfare, according to Rawls,

depends directly and solely upon the levels of satisfaction or dissatisfaction of individuals. Thus if men take a certain pleasure in discriminating against one another, in subjecting others to a lesser liberty as a means of enhancing their self-respect, then the satisfaction of these desires must be weighted in our deliberations according to their intensity, or whatever, along with other desires.¹¹

According to the *expensive tastes objection*, distributing resources in order to equalise welfare across persons without taking into consideration the different tastes people entertain, and the way these tastes were acquired, implies counter-intuitively that people who experience less welfare than others due to the fact that the tastes they possess are simply difficult to satisfy should be allocated additional resources. Consider the case of *Louis*, who quite deliberately cultivates a preference for ‘plovers’ eggs and pre-phylloxera claret’ which require a great deal of resources (e.g. income) to satisfy.¹² It seems inappropriate for an egalitarian view to attempt to

¹¹ Rawls, *A Theory of Justice*, pp.30-1.

¹² Dworkin, ‘What is Equality? Part I: Equality of Welfare’, p.230.

compensate people such as Louis who have acquired such tastes through elitist aspirations or through mere lack of self-discipline, but welfarist views seem unable to capture this thought. As both Rawls and Dworkin seek to point out, welfare egalitarianism requires, counter-intuitively, that extra resources be given to those who possess expensive tastes, even if the persons who entertain them (a) acquired them voluntarily, (b) do not regret that they acquired them and (c) regard these tastes as being as being central to their identity.¹³

Equality of welfare does not merely reward those who possess expensive tastes, it also appears to penalise those who possess less expensive, or *cheap*, tastes. According to the *cheap tastes objection*, equality of welfare is implausible because it cannot make sense of the intuitive view that people should be compensated for their severe resource deficiencies even if these deficiencies do not prevent their owners from enjoying an average, or higher than average, level of welfare. Consider the case of the Dickensian character *Tiny Tim*.¹⁴ Tim's legs are paralysed through no fault of his own, so if he is to gain any degree of personal mobility he requires a wheelchair. Unfortunately, however, he has not the resources at present to afford a wheelchair. More fortunately, Tim is a very cheerful fellow - so much so that, despite his disadvantage, he can convert the wherewithal at his disposal into a high level of well-being.

¹³ See Rawls, 'Social Unity and Primary Goods', in Amartya Sen and Bernard Williams, *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, p.16; Dworkin, 'What is Equality? Part 1: Equality of Welfare', pp.229ff.

¹⁴ A case discussed by Dworkin, 'What is Equality? Part 1: Equality of Welfare', pp.241-2; and G.A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics*, 99, July 1989, pp.917ff.

The question arises: should Tim, in spite of his cheerfulness, receive a state subsidy in order to purchase a wheelchair? Equality of welfare seems badly suited to explain our intuition that Tim should indeed receive his subsidy. This is because welfare egalitarians will view Tim's situation as being of distributive significance only to the extent that his disability entails that he experiences less welfare than others. However, Tim's cheerful disposition rules out the possibility that his disability will have this consequence. Therefore, equality of welfare will deny that Tim deserves any kind of compensation for his disability, despite the fact that Tim's disability arose through no fault of his own. But as Cohen argues, Tim's capacity for happiness in the face of adversity would not normally lead egalitarians to 'strike him off the list of free wheelchair receivers' for they believe that physically handicapped people, such as Tim, should be 'adequately resourced, whether or not they also need them to be, or to be capable of being, happy.'¹⁵

2.2 Equality of Resources

One well known alternative to equality of welfare is *equality of resources*. There are two main variants of this view: *equality of impersonal resources* and *equality of*

¹⁵ Cohen, 'On the Currency of Egalitarian Justice', p.918. The problems which the *expensive* and *cheap* tastes objections pose for welfare egalitarianism have prompted some writers to amend, but not abandon, the welfare egalitarian view. These writers claim that while we should abandon the idea of equalising interpersonal welfare as such, we ought to seek to equalise interpersonal *opportunities for welfare*. The idea here is that, in most circumstances, people should be held responsible for the preferences which they possess, and also for the amount of effort they put into their attempts to satisfy these preferences. Those who entertain expensive tastes, for example, should not be compensated for any welfare deficit they experience as a result of possessing preferences which are very difficult to satisfy. I return to this view in section 2.4.

impersonal and personal resources.¹⁶ In the following, I argue that both of these theories can be extended intergenerationally without incoherence, and both will view the IPCC's findings on climate change as being highly relevant from the point of view of distributive ethics.

2.2.1 Intergenerational Equality of Impersonal Resources

Perhaps the best known theory of equality of impersonal resources is defended by John Rawls.¹⁷ Rawls suggests that the problems which afflict welfarist theories of distributive ethics, such as utilitarianism, can be avoided if we seek to distribute what he calls *primary goods* so that, unless the worst off in society gain from their unequal distribution, these goods are dispersed evenly throughout the population.¹⁸ Primary goods are in effect generalised resources which everyone requires regardless of what they want out of life, and according to Rawls they fall under five main categories: (a) 'the basic liberties as given by a list', (b) 'freedom of movement and choice of occupation against a background of diverse opportunities', (c) 'powers and

¹⁶ Impersonal resources consist in things such as income and wealth which are not constitutive parts of a person, whereas personal resources consist in things such as a person's physical and mental powers, talents and handicaps which are constitutive parts of a person. See Dworkin, 'What is Equality? Part Two: Equality of Resources', *Philosophy and Public Affairs*, 10, 4, 1981, pp.300ff.

¹⁷ It is worth noting that Rawls' view, like Honderich's, might be interpreted as one of giving priority to the worst off, rather than of equality as such. I discuss the distinction between theories of distributive equality and priority in section 3 below.

¹⁸ According to Rawls' theory of the ethics of distribution,

'Social and economic inequalities are to satisfy two conditions: they must be (a) to the greatest benefit of the least advantaged members of society; and (b) attached to offices and positions open to all under conditions of equality of opportunity' ('Social Unity and Primary Goods', p.162).

prerogatives of offices and positions of responsibility', (d) 'income and wealth', and (e) 'the social bases of self-respect.'¹⁹

Let us concentrate on (d) - income and wealth. The Rawlsian view does not appear to be prone to at least two of the three problems discussed above precisely because it eschews the aim of achieving interpersonal equality of welfare. Thus, it is consistent with the idea that income and wealth should not be given to people in order that they can satisfy their expensive tastes, as well as the idea that it should not be an aim of an egalitarian theory that peoples' expensive tastes be satisfied (I return to the issue of cheap tastes below).

Extending theories of impersonal resource egalitarianism, such as Rawls', across generations would appear to require that each generation hand down to the next a no less abundant share of resources than that which it inherited from previous generations. Consider the view defended by Brian Barry.²⁰ Here, the consumption of non-renewable natural resources over time 'should be compensated for in the sense that later generations should be left no worse off (in terms of productive capacity) than they would have been without the depletion.'²¹

The fundamental issue for a theory of intergenerational equality, Barry thinks, is the appropriate consumption of non-renewable natural resources across time. When reserves of non-renewable resources (such as oil or natural gas) are depleted, the costs of extracting and then using these resources to generate electricity to heat homes,

¹⁹ Rawls, 'Social Unity and Primary Goods', p.162.

²⁰ I discuss Rawls' view of intergenerational distribution in more detail in chapter 3.

²¹ Brian Barry, 'The Ethics of Resource Depletion', in Barry, *Democracy, Power and Justice*, Oxford, Clarendon, 1989, p.519. See also Talbot Page, 'Intergenerational Justice as Opportunity', in Douglas Maclean and Peter Brown, eds., *Energy and the Future*, Totowa, New Jersey, Rowman and Littlefield, 1983, p.58

power cars, and run machinery are increased for *future generations*. There are also costs imposed upon these generations in virtue of the *side-effects* of depleting these resources, such as global climate change, air pollution and destruction of the ozone layer. As a consequence of these costs, it is crucial to establish how much existing generations may deplete stocks of non-renewable resources without violating the requirements of intergenerational equality.

It would be unfair, Barry thinks, to require existing generations to leave *all* non-renewable resources untouched for the sake of future generations (that is to consume nothing), neither would it be possible for each generation to replicate in every detail the non-renewable resources it exhausts. However, it would appear to be a sound principle to aim for that existing generations ought not act so as to worsen the position of future generations by depleting non-renewable resources with no compensatory action or recompense.

The idea of making recompense, however, typically leaves it open for a given compensation for a depleted resource, *X*, to be compensated by the provision of a given commensurable resource, *Y* - so long as this compensation enables the recipient to be no worse off than they would have been had the original resource, *X*, not been used up. Perhaps the most obvious example of such compensation in the intergenerational context would be the way in which improvements in technology (energy efficiency, for example) appear to compensate for losses of natural non-renewable resources (energy resources such as coal, for example).

So long as we regard the climate system as a sort of 'open access resource' in its own right, then, it appears that Barry's view will generate extensive obligations on the part

of existing generations not to act in such a way as to (1) damage the climate system by continued profligate emissions of GHGs into the atmosphere, (2) deplete non-renewable natural resources which are sources of GHGs, or (3) bring about the destruction of certain natural resources (such as coastal land) through climate change *unless these actions are offset by an appropriate amount of compensation.*

2.2.2 Intergenerational Equality of Impersonal and Personal Resources

One problem with equality of resources as just explained has prompted some to amend, but not abandon, the resourcist view. The problem is that some people, despite having the same bundle of *impersonal resources* as others, might still not enjoy equal life-chances in any real sense as a result of them experiencing some natural disadvantage. Consider someone who is born hard of hearing. Bringing it about that this person has the same amount of money as everybody else might still not remedy the relative lack of life-chances that he experiences as a result of his disability (that is, it might not enable him to purchase a hearing aid, for example, a device which would considerably improve his life-chances). Or consider the case of Tiny Tim. According to theories of equality of impersonal resources, Tim should get the same resource share as everyone else, despite his sunny disposition. However, if an equal share of his society's impersonal resources is simply not big enough for him to afford a wheel-chair, then this is simply not a development which this distributive theory will regard as problematic.

The amendment which some have proposed in order to overcome this problem is to include within the concept of resources, *personal resources*, such as talents or

disabilities which are inalienable features of a person. So in our example of the person who is hard of hearing, or of the case of Tiny Tim, the disabilities concerned would be viewed as (so to speak) a *negative* resource which is (other things equal) deserving of compensation from the resource egalitarian point of view. Dworkin, for example, argues that, to be an attractive alternative to equality of welfare, resourcism must not only seek to eradicate undeserved inequalities which arise from people's differential holdings of impersonal resources such as income and wealth, but also those which result from people's undeserved differential holdings of personal endowments, such as talents and handicaps.²² Of course, natural endowments are not easily transferred from person to person - at least in practice - so it is unclear how a society might put an egalitarianism of both personal and impersonal resources into effect. As a result, the problem which exercises Dworkin is how to define a distribution of transferable, external, resources which would best approximate to the requirement that we remove interpersonal inequalities in holdings of personal and impersonal resources.

I take the liberty of not discussing in detail the intricate argument which Dworkin puts forward to defend his theory of equality of impersonal and personal resources, except to note that a crucial component of it is to be found in the notion of *envy elimination*. Simply put, Dworkin thinks that equality of personal and impersonal resources requires that allocations of resources be effected such that, immediately after the allocation, no person affected would prefer someone else's allocation of resources to their own. This test of egalitarian distribution has become known as the *envy-test*, and distributions of resources which meet this test are called *envy-free*

²² See Dworkin, 'What is Equality? Part Two: Equality of Resources', pp.284ff.

distributions.²³ The envy-test, though not without its problems, offers an attractive view of distributive equality. Moreover, it seems to capture the wish that equality be sensitive to peoples' differential endowments of personal, as well as impersonal, resources.

The envy-test is also a notion which has interesting implications for climate change ethics. Suppose once more that climate change does have the, predominantly adverse, effects on the health and well-being of future human populations that the IPCC predict. Recall that, to the extent that members of these populations will inherit (through no fault of their own) a damaged context within which to pursue their life plans, Barry's theory of intergenerational equality of impersonal resources would appear to view these people as deserving of compensation. This is because such people - or at least many of these people - will have access to a less than abundant bundle of impersonal resources than were available to earlier generations.

Climate change, however, may also have effects which undermine intergenerational equality of *personal resources* as well. It is true that some impacts of climate change, such as sea-level rises, will impact largely upon peoples' access to impersonal resources, such as fertile agricultural land. However, other impacts relating to rising temperatures may well have effects on the personal resources of future individuals. Examples might be the way in which extremes of temperature and air pollution affect not simply the impersonal resources available to humans (e.g. clean air), but also rates of physical and mental disease amongst both adults and young children.²⁴

²³ Dworkin, 'What is Equality? Part Two: Equality of Resources', pp.284ff.

²⁴ See A.J. McMichael et al, 'Heat, Cold and Air Pollution', in McMichael et al, eds., *Climate Change and Human Health*, Geneva, World Health Organisation, 1996, pp.43ff.

I have not the space here to discuss the highly pertinent question of whether Barry's theory of intergenerational equality might be broadened to require the conservation of personal, as well as impersonal, resources across generations. However, even without such a discussion, it seems reasonable to conclude that climate change issues do raise questions of great significance for theories of resource egalitarianism on either of its main variants.

2.3 Equality of Basic Capabilities

According to basic capability egalitarianism, we should seek to equalise what people are able to do with resources, their *basic capabilities and functionings*, and not peoples' impersonal and personal resource shares as such. Amartya Sen, who is the most prominent proponent of this theory of equality of condition, lists several basic capabilities including 'the ability to meet one's nutritional requirements, the wherewithal to be clothed and sheltered, [and] the power to participate in the social life of the community.'²⁵ According to Sen, basic capabilities and functionings are not so much features of goods themselves but of 'peoples' relations with these goods.'²⁶ He writes that, 'what people get out of goods depends on a variety of factors, and judging personal advantage just by the size of personal ownership of goods and services can be very misleading.'²⁷

Consider the paradigm example of a basic capability: that of being *well-nourished*.

The distributive importance of food stuffs for *welfarists* lies in terms of the way in

²⁵ Amartya Sen, 'Equality of What?', p.367.

²⁶ Sen, 'Rights and Capabilities' in Sen, *Resources, Values and Development*, Oxford, Basil Blackwell, 1984, pp.315-6.

²⁷ Sen, *Choice, Welfare and Measurement*, pp.29-30.

which their consumption creates welfare (satisfies preferences), and for *resourcists* it is simply the possession of the food itself. But, as Sen notes, having access to a regular supply of food gives people much more than just a regular supply of welfare, and what it does for them cannot be explained solely in terms of resource possession. Rather, such access engenders 'the capability of functioning in a particular way, e.g. without nutritional deficiencies of particular types.'²⁸ Basic capability egalitarianism, Sen argues, would certainly require differential distributions of resources: a person with a lower metabolic rate may well require less food in order to become, and continue to be, well nourished than a person with a higher metabolic rate. However, it is not by creating an equal distribution of resources as such that we achieve equality of condition, but rather by creating an equal distribution of basic capabilities and functionings.

Sen's theory of basic capability equality appears well suited to the context of intergenerational distribution. It would seem to require that the present generation should not act so as to undermine the possibility that members of future generations will be able to exercise certain basic capabilities. To the extent to which human originating environmental problems, such as climate change, do undermine this possibility, it would seem that they violate the requirements of basic capability equality. Our concerns here will certainly be different from either the *resourcist* or the *welfarist*. It will not be the aim of distributive ethics to secure a resource base for future generations which is no less abundant than that enjoyed by previous generations, but rather to preserve a resource base which enables future persons to

²⁸ Sen, 'Rights and capabilities', p.316

meet their nutritional, clothing, and health capabilities in a way which is no less the case than with existing persons.

Consider the way in which climate change is expected to impact upon the food production, food security and food quality both within and between future generations. Reliable sources of good quality food are crucial for the normal growth and health of existing and future human populations, and recent research on climate change suggests that a number of changes in climate variables are expected to alter both the total amount of food available to future populations, and the nutritional quality of this food.²⁹ Sea-level rises, for example, are expected to bring about a massive loss of land (through the process of inundation), soil infertility and loss of fresh water for irrigation projects. As a consequence, food production and nutrition in many coastal regions is expected to be damaged. However, food production is also expected to be threatened in the future in semi-arid areas as a result of global warming as well.³⁰

In fact, when all the changes in climate variables are taken into consideration, the IPCC suggest that many more people belonging to future generations are at risk from hunger and malnutrition as a result of climate change. A central finding in this regard is that 'an extra 40-300m people will be at risk of hunger in the year 2060 because of the impact of climate change on top of a predicted 640m people at risk of hunger by that date in the absence of climate change.'³¹ Taking nutritional status as a

²⁹ See A.J. McMichael et al, 'Climate, Food Production and Nutrition', in A.J. McMichael et al, eds., *Climate Change and Human Health*, pp.107ff.

³⁰ IPCC, 1996b, pp.576-7.

³¹ IPCC, 1996b, p.577. According to McMichael et al, 'it is generally considered that sustained, increasing climate change would eventually cause a downturn in world crop production' ('Climate, Food Production and Nutrition', p.121).

paradigmatic example of a basic capability, then, the IPCC's research suggests strongly that climate change will impact upon the distribution of basic capabilities across generations, and that it will be the case that some future persons will have a less than equal share of at least one basic capability (e.g. nutrition) than that enjoyed by existing persons.

Climate change will also, it seems, impact upon the distribution of basic capabilities *within* the generations to come. This is because changes in climate variables will impact more adversely upon peoples' access to basic capabilities in some regions than others. This is at least partly down to the fact that some regions, and populations, are more able to adapt to changes in climatic conditions than others. Thus the IPCC argue that 'poorer countries, already struggling with large and growing populations and marginal climatic conditions' would be particularly vulnerable to the food shortages brought about by climate change.³² I conclude that the IPCC's findings are of genuine concern for capability egalitarians.

2.4 Equality of Opportunity

Non-welfarist egalitarians, such as Dworkin and Sen, hold that equality of welfare is an inadequate articulation of distributive equality. Take Dworkin, for example. Dworkin's main charge against equality of welfare is that it cannot permit inequalities in interpersonal welfare when such inequalities are deserved. For example, equality of welfare cannot make sense of the view that those who possess voluntarily acquired expensive tastes, such as the taste for fine wine, should *not* be allocated extra

³² IPCC, 1996b, p.577.

resources even if this means that these people continue to enjoy less welfare than others. If a person enjoys less welfare than others as a result of his failure to convert the resources at his disposal into satisfied preferences, Dworkin thinks, this is not something that should concern egalitarians. What should concern egalitarians, according to Dworkin, is rather the aim to equalise peoples' possession of impersonal and personal resources, subject to the proviso that inequalities in resource possession which arisen from actions or beliefs that people can be responsible for are ethically unproblematic.

Suppose that we share the broad thrust of Dworkin's objections to equality of welfare, namely, we hold that distributive equality consists in eliminating inequalities in peoples' conditions which arise involuntarily. It is still not necessarily the case that we must endorse Dworkin's view that eliminating such inequalities requires the equalisation of people's holdings of impersonal and personal resources. For we might disagree with Dworkin as to those features of a person's condition which they are responsible for and those features which they are not. It has been argued recently, for example, that Dworkin draws the boundary of what a person is, and is not, responsible for in the wrong place when he argues that people are responsible for the preferences they entertain and affirm, but not the resource endowments that they possess.

Cohen, for example, has claimed that the correct boundary between what people are responsible for and what they are not is determined by the distinction between what happens to them as a consequence of bad luck on the one hand, and what happens to them as a result of actions which they could have chosen not to perform on the

other.³³ Arneson, in contrast, proposes a slightly different account of where this boundary should be drawn. The contributions of Arneson and Cohen to the issue of distributive equality represent two additional answers to Sen's question which I have yet to explore, namely, *equality of opportunity for welfare* and *equality of access to advantage*. In the following I outline each, and go on to comment on their intergenerational extension.

2.4.1 Arneson and Equality of Opportunity for Welfare

Arneson presents the core idea of his theory of equality of opportunity for welfare in the following passage:

Think of two persons entering their majority and facing various life choices, each action one might choose being associated with its possible outcomes. In the simplest case, imagine that we know the probability of each outcome conditional on the agent's choice of an action that might lead to it. Given that one or another choice is made and one or another outcome realised, the agent would then face another array of choices, then another, and so on. We construct a decision tree that gives an individual's possible complete life-histories. We then add up the preference satisfaction expectation for each possible life history. In doing this we take into account the

³³ Cohen, 'On the Currency of Egalitarian Justice', pp.921ff. Cohen writes that 'the right cut is between responsibility and bad luck, not between preferences and resources' (p.921).

preferences that people have regarding being confronted with the particular range of options given at each decision point.³⁴

According to Arneson, equality of opportunity for welfare consists in each person facing life-plan, or *decision*, trees which are identical in the sense that the expected levels of welfare achieved by these trees are the same (or effectively the same). This view departs from straight-forward equality of welfare, then, by regarding those inequalities between peoples' final level of welfare which are within their control as being 'nonproblematic from the standpoint of distributive equality.'³⁵

On first inspection, Arneson's view seems readily extendible to issues of intergenerational distribution. At the start of his essay, Arneson remarks that an important context for discussions of distributive equality is the fact that 'many persons are troubled by the gap between the living standards of rich people and poor people in modern societies or by the gap between the average standard of living in rich societies and that prevalent in poor societies.'³⁶ However, many people are equally concerned about the possibility that there will be a gap between living standards in present and that prevalent in subsequent generations. Thus, while Arneson's account is motivated at its core by an abstract notion of equality according to which 'other things being equal, it is bad if *some people* are worse off than others through no voluntary choice or fault of their own',³⁷ there seems to be no obvious motivation an egalitarian would have for thinking that these people must be members of the present generation.

³⁴ Arneson, 'Equality and Equal Opportunity for welfare', p.85.

³⁵ Arneson, 'Equality and Equal Opportunity for welfare', p.86.

³⁶ Arneson, 'Equality and Equal Opportunity for welfare', p.77.

³⁷ Arneson, 'Equality and Equal Opportunity for welfare', p.85 - emphasis added.

Moreover, the impacts of climate change discussed in the previous chapter seem to raise questions of distributive significance for the Arnesonian view, just as they do for other welfarist views. This is because these impacts will affect the opportunities which future people will have to satisfy their preferences, and with them the extent to which existing and future people are equal in terms of the metric of opportunities for welfare. Consider, for example, the problem of global warming. The extent to which people of different generations will face life-plans trees that are identical in the sense that they exhibit 'equivalent arrays of options'³⁸ will be determined in part by their health, and the health of their contemporaries. But the increased instances of heat waves and generally warmer seasons will surely impact upon the health of future persons, and in turn on their opportunity to realise various life-plans.

It can be predicted, for example, that in many countries global warming will limit the options people have to pursue activities in the open air at certain times of the year (as well as during heat waves and other extreme weather events). Because existing persons do not experience such limited options at present (or at least not to the same extent), this could be a source of intergenerational inequality on the Arnesonian view. Obviously the presence of such inequality is susceptible to other developments, such as the fact that the existing generation may create and bequeath additional technology to their successors in order to compensate for the lost opportunities for welfare brought about by certain aspects of the global warming phenomenon. Nevertheless, global warming could be expected to be a *prima facie* source of intergenerational equality of opportunity.

³⁸ Arneson, 'Equality and Equal Opportunity for Welfare', p.86.

One obstacle in the path of these claims, however, has been discussed above - namely, the prospect of adaptations in the preference base of future persons. Suppose that the policy-makers in charge of climate policy decide to invest a large amount of money in a programme of genetic engineering which has the aim of ensuring that people coming into existence in the future will be generally well adapted, constitutionally, to a world changed by climate change. The alternative, let us assume, would have been to invest an even larger sum on measures which would avoid climate change altogether. Would the policy-makers' actions, here, violate the norm of equality of opportunity for welfare?

The future persons concerned, let us imagine, would have access to far fewer natural resources than present persons, and many of the natural resources which they do have access to (e.g. air or water) would be contaminated. However, the genetic engineering programme would enable the creation of persons who do not mind only having access to contaminated air or water: perhaps they could be engineered to possess a sunny disposition (as in the case of Tiny Tim) such that the sum of the expected utilities of their possible life-plans are at least as great as those enjoyed by members of the present generation. These people would enjoy neither less welfare, nor less equality of opportunity for welfare, as members of previous generations - despite the fact that they have access to less natural resources and so forth. This is because the sum of the expected levels of welfare achieved by the branches of their life-plan trees will be equal, or at least not smaller, than the life-plan trees of present persons. The intergenerational extension of equality of opportunity for welfare, then, seems to be as open to the problem of adaptive preferences as is simple equality of welfare.

Let us, however, put this problem to one side. To the extent to which the intergenerational extension of Arneson's view might be saved from these problems, and to the extent to which climate change will impact upon the distribution of opportunities for welfare across generations, the IPCC's research findings should be of at least *some* concern for opportunity for welfare egalitarians.

2.4.2 Cohen and Equality of Access to Advantage

Like Arneson, Cohen proposes that equality of condition requires that compensation be paid to people who experience involuntary disadvantage. However, his proposal - that egalitarians should seek to equalise *access to advantage* - marks a subtle, if important, departure from the Arnesonian view. Put simply, while he agrees with Arneson that people are responsible for outcomes but not for the opportunities they face, he proposes that egalitarians should adopt a broader, more heterogeneous, understanding of the measure of social and economic benefit which they wish to equalise across persons.

The main improvement which Cohen thinks his view makes to Arneson's is that it can make sense of two particularly troubling cases which seem to undermine the Arnesonian construction. The first, the case of *Tiny Tim*, has been discussed above. Tim is paralysed, though because of his sunny disposition he is still better endowed in terms of welfare than most other people in society. Moreover, because of this sunny disposition, Tim also possesses a life-plan tree which is superior to others in the sense that the sum of all the expected levels of welfare of each of his possible life-plans is greater than that of many of his contemporaries.

It seems that the Arnesonian view will not only refuse to allocate Tim extra resources so that he can purchase a wheel-chair, but will also require that some resources be taken from him due to the superior opportunities of welfare he derives in part from his sunny disposition. According to Cohen, however, this line of reasoning is wrong-headed. He thinks that distributive equality requires that Tim be given the wheelchair, for egalitarians should seek to equalise a conception of interpersonal advantage which recognises the importance of resources and functionings, as well as welfare. Cohen thinks that any theory, such as Arneson's, which maintains that 'wheelchair distribution should be controlled exclusively by the welfare opportunity requirements of those that need them', is a flawed embodiment of the egalitarian ideal.³⁹

Next, we turn to the case of *Jude*, which Cohen argues undermines both the Dworkinian and the Arnesonian views. Here, Jude, who is a member of a society in which equality of welfare has been achieved, possesses a smaller resource share than his fellow citizens as a result of the fact that his preferences are inexpensive to satisfy.

However, on reading Hemingway, Jude comes to the conclusion that there is

³⁹ Cohen, 'On the Currency of Egalitarian Justice', p.918. Cohen seeks to show that welfare itself is an important, if not sole, component of advantage with a further case, which does not actually undermine Arneson's view. Here a person whose arms are otherwise healthy and in working order suffers from a condition which causes him great pain whenever he moves his arms. This pain, however, can be prevented if he takes an expensive drug, and does not affect his ability to move his hands normally - a drug which he cannot, at present, afford. Can this person claim that distributive equality entails that he be given extra resources so that he can acquire this drug? Cohen thinks that he certainly can, as his disadvantage is not something which he is responsible for. However, he argues that while the Arnesonian view can explain the basis of this conviction, the Dworkinian view cannot, for the disadvantage here is one of welfare rather than resources. The conclusion Cohen comes to is that egalitarians should seek to equalise a conception of interpersonal advantage which recognises not just the importance of functionings or resources, but also of *welfare* (Cohen, 'On the Currency of Egalitarian Justice', pp.918-921).

something missing in his life, and as a result he cultivates, quite voluntarily, the preference to travel to Spain in order to attend bullfights.⁴⁰

Although the trip would require more money than he has at present, Jude's generally modest tastes entail that the amount of money he would require in order to travel to Spain, and thereby reach the average welfare level in his society, would still be much less than others require to do the same. Cohen argues that the case of Jude raises what he calls the *cheap expensive tastes objection* to equality of opportunity for welfare and equality of resources. This is that these views of what distributive equality amounts to, quite counter-intuitively, will *not* permit Jude being given the additional resources necessary for him to satisfy his newly acquired taste, even though the additional resources Jude requires will still leave him with a less than equal share of his society's resources.

In effect, Cohen appeals to the case of Jude in order to argue that when we are concerned to equalise peoples' opportunities of condition, this condition cannot be expressed solely in terms of peoples' welfare. Rather it must be expressed in a wider notion of what a person's condition, or advantage, consist in. Otherwise, we could not explain the conviction that Jude ought to receive additional resources despite the fact that he acquired his new tastes (which are more expensive than they were, but still less expensive than those of others) quite voluntarily. The Arnesonian view would, for example, keep Jude poor since he could have chosen not to acquire the his new

⁴⁰ This example is discussed by Dworkin, 'What is Equality? Part 1: Equality of Welfare', pp.239ff; Cohen, 'On the Currency of Egalitarian Justice', pp.925ff; and Roemer, *Theories of Distributive Justice*, pp.273-4.

tastes, and this view does not compensate people for welfare deficiencies which arise from behaviour which we can hold these people responsible for.

On the other hand, the Dworkinian view would not take Jude's altered preferences into consideration at all in its determination of what Jude is owed in terms of distributive equality - so Jude will end up with much more income and wealth than he requires to satisfy even his most expensive tastes. According to Cohen, however, Jude should indeed be allocated the resources required for him to take the trip to Spain, but should expect 'some deduction from the normal resource stipend because of his fortunate high ability to get welfare out of resources',⁴¹ and such a view can only be maintained if we embrace a conception of advantage, or condition, which incorporates both welfare and resources.

As Cohen remarks, the superiority of his view rests on the 'heterogeneity of its conception of advantage',⁴² and it is this conception which appears to have some application to issues of intergenerational equality and climate change ethics. This is because there will be instances where climate change will bring about inequalities in peoples' possession of Cohen's heterogeneous measure of advantage, but not in Arneson's, welfarist measure. Recall the case of the policy-makers who adopted a programme of genetic engineering in order to finesse the requirements of intergenerational equality of opportunity. On Cohen's view, their actions would violate the requirements of equality of access to advantage if this view could be extended intergenerationally. This is because the future persons it brings into

⁴¹ Cohen, 'On the Currency of Egalitarian Justice', p.925.

⁴² Cohen, 'On the Currency of Egalitarian Justice', p.925.

existence will be disadvantaged, if not in terms of opportunities for *welfare*, then in terms of opportunities for *resources* (and possibly *functionings* as well).

Thus, intergenerational equality of access to advantage would probably not be consistent with a policy of bringing into existence generation upon generation of Tiny Tim's who are happy in the face of the environmental adversity brought about by climate change, for this would not reflect the heterogeneity of the concept of advantage which egalitarians should focus on. On the other hand, much of what was said above regarding the significance of climate change for welfarist views will also apply to Cohen's view, for climate change impacts such as rising sea-levels, extremes of temperature and famine will (putting aside the possibility of radical changes in the way people set about having offspring) impact upon the intergenerational distribution of advantages and access to advantages.

3. Equality or Priority?

While theories of equality of condition differ according to the view they take of the appropriate *currency* of advantage by which distributive outcomes should be evaluated, they share the view that the task of distributive ethics is to secure equality of life-chances. Supporters of equality of condition often appeal to the relative lack of life-chances which the poor and physically impaired enjoy in modern societies in order to gain intuitive support for their view. However, few writers in the egalitarian tradition acknowledge that the aim of distributing resources so that no one is worse off than others through no fault of their own can conflict with the aim of distributing resources for the sake of the worse off in society. This distinction - between the ideals

of *equality* and *priority* - is a subtle one, and easy to overlook. One writer who is sensitive to the distinction, however, is Derek Parfit. Parfit clarifies and taxonomises the debate between those who seek to equalise the fortunes of persons according to some metric and those who seek to give priority to the worst off. This section examines some of Parfit's central claims, and relates them to issues of intergenerational distribution.

3.1 Parfit on Giving Priority to the Worst Off

In 'Equality or Priority?', Parfit suggests that theories of equality of condition can be divided into two groups, that is, those which assume that inequality is always in itself bad (telic egalitarians), and those which assume that inequality is bad only if it has certain origins - for example, it having arisen from human action (deontic egalitarians).⁴³ According to both deontic and telic versions of egalitarianism, however, equality is still non-instrumentally valuable, and as such its goodness does not depend on it promoting the achievement of other values.

Parfit observes that there are serious problems with both telic and deontic egalitarianism in virtue of the fact that both view a move towards greater equality as being non-instrumentally valuable, and thus always a good thing *in at least one respect*. One of these problems is captured in the following example.⁴⁴ Suppose that half of some population are blind while the other half is sighted, and that this is the only relevant difference between the two groups. Both telic and deontic egalitarianism

⁴³ Derek Parfit, 'Equality or Priority?', Lindley Lecture, University of Kansas, 1995, pp.3ff.

⁴⁴ Parfit, 'Equality or Priority?', pp.16-18. A version of the objection is also discussed by Joseph Raz. See Raz *The Morality of Freedom*, pp.230-1; p.235.

would view the act of putting out the eyes of the sighted in order that all be equally blind as a good thing to do in at least one respect. Because such an implication seems quite counter-intuitive, Parfit claims it raises the *Levelling Down Problem*.

The Levelling Down Problem seems to apply to both the deontic and the telic view, although because either view might be defended in forms which are restricted in their scope, either view might avoid the problem in certain cases.⁴⁵ Suppose, for a different example, that we think that the next generation will in fact be better off than the present generation despite the many environmental and social problems they will inherit from us. According to the Levelling Down Problem, it might be better in at least one respect that the present generation simply destroy a certain amount of resources so that our descendants will not be any better off than us.

Parfit suggests that one way in which those who are broadly sympathetic to the aims of egalitarianism might attempt to avoid the levelling down problem is to embrace the idea of *priority*. According to this view, the worse off people are the more it matters from the ethical point of view that they be benefited. Parfit calls this the *Priority View*, and those holding it *prioritarians*.⁴⁶ Prioritarians reject the basis of both telic and deontic egalitarianism, namely, that it is bad, or unjust, that some people are worse off than others though no fault of their own.⁴⁷ This is because they are unconcerned with the relational or comparative properties of resource allocations as

⁴⁵ Thus Parfit suggests that deontic egalitarians might appeal to the notion of *reciprocity* in order to argue that inequalities matter only between persons who can engage in mutually beneficial interaction, or the notion of *community* in order to argue that inequalities matter only between persons who belong to the same political community. Here, there would be no pressure to 'level down' if the inequalities worked against the interests of non-compatriots or non-contributors. For an extended discussion of the relation between reciprocity and distributive ethics, see chapters 3 and 4 below.

⁴⁶ Parfit, 'Equality or Priority?', p.19.

⁴⁷ Parfit, 'Equality or Priority?', p.22.

such. Instead, they think it bad that people are badly off regardless of the position of others.⁴⁸ On this view, Parfit writes,

benefits to the worst off matter more, but that is only because these people are at a lower absolute level. It is irrelevant that these people are worse off than others. Benefits to them would matter just as much even if there were no others who were better off.⁴⁹

For illustration, consider the following distributive dilemma discussed by Arneson. Here the newly arrived sole inhabitants of some desert island are in the process of dividing up the island's impersonal resources according to the dictates of distributive ethics. In this special case, however, there is only one resource to be distributed, *Resource X*, and this resource has some rather special characteristics. Arneson writes,

Suppose we have on hand a fixed stock of the good X, which can be divided as finely as one pleases. X is intrinsically valuable, not merely valuable as a means to further goods, and the morally appropriate distribution of X is thought to be desirable for its own sake and not merely as a means to achieving a distribution of some further good. There are N individuals in society and for each of them, the more of X one has, the better off he is.⁵⁰

In the above circumstances, Arneson observes that theories of equality and priority will require that X be divided such that each of the N persons in the population

⁴⁸ Parfit, 'Equality or Priority?', p.23. See also Raz, *The Morality of Freedom*, p.242.

⁴⁹ Parfit, 'Equality or Priority?', p.23.

⁵⁰ Arneson, 'Equality', p.502.

will receive an equal $(1/N)$ share of it.⁵¹ Suppose next, however, that we relax the assumption that Resource X can be divided as thinly as we might like, and that as a result not all of the ways in which the island's resources might be divided will leave each islander with a $1/N$ share of resource X. Suppose, in fact, that two sets of different, and mutually exclusive, divisions were possible, such that immediately after the division people would derive the following levels of well-being from the impersonal resources they are allocated:

Division 1

(1) all at 50 (2) half at 40, half at 70 (3) half at 20, half at 80

Division 2

(1) half at 49, half at 46 (2) half at 60, half at 45 (3) half at 40, half at 40

In the case of Division 1, the requirements of equality and priority are, once more, interchangeable. That is, they require that we choose outcome (1), either because all are equal here with respect to resource X (the equality view) or that the position of the worst off islanders here is best off as compared with outcomes (2) and (3) (the priority view). However, in the case of Distribution 2, the equality and priority views do not require the same distributions of X - for the equality view requires that we choose outcome (3), whereas the priority view requires that we choose outcome (1). It appears, then, that there will be cases in which the equality and priority views will conflict.

⁵¹ Arneson, 'Equality', p.502.

Two issues arise here. First, the issue of the way in which equality and priority can diverge in what they require of distributive ethics in intergenerational contexts; second, the issue of whether the IPCC's findings matter from the prioritarian point of view. Regarding the first issue, suppose that the groups possessing differential amounts of resource X above each belonged to a different generation (one of the 20th century and one of the 21st century) and the lives of none of the members of these generations overlap. In this case, whether we are prioritarrians or egalitarians could make a tremendous difference, at least in principle, to the way in which we view the distributions of X *across* generations as well as *within* generations.

Suppose that the differential prospects of the populations in the Distribution 2 example arise as a consequence of the different environmental policy choices adopted by previous generations (the population halves representing the earlier and the later generation respectively). For simplicity, we might say that choice (1) equates to a moderate conservation stance, (2) to no conservation at all, and (3) to a quite radical conservationist stance. According to equality we should chose (3), whereas according to priority we should choose (1). Quite apart from the question of what metric of advantage we adopt, then, it can matter that we are prioritarrians and not egalitarians from the intergenerational ethical point of view.

Turning to the second issue, it seems that the IPCC's predictions about climate change do indeed appear to matter a great deal from the prioritarian view when it is extended intergenerationally. This is because climate change impacts will influence the quality of life enjoyed by the worst off members of future generations. It will do this in two ways. First, it will impact upon the issue of which regions, and

populations, of the world will be worst off in the future and to what extent (consider here the way in which global sea-level rises and climate induced reductions in food production and food quality are expected to exacerbate inequalities between nations). Second, it will impact upon the issue of which generations taken as a whole will be worst off in the future and to what extent (consider here the problems posed by climate induced air pollution and consequent cardiovascular disorders which may well plague developing and developed nations alike).

It is worth noting, however, that there is one problem with the view that global environmental problems such as climate change pose particular challenges for prioritariness. This is that, barring what the IPCC terms catastrophic 'surprises',⁵² one might think that it is unlikely that climate change (or any other contemporary environmental problem) will reduce the quality of life of future generations to that of, or below, the quality of life enjoyed by many previous generations. Economists such as Beckerman, for example, argue that even if no attempts are made to stabilise or reduce emissions of GHGs in the near future, future generations will be able to adapt relatively easily to rising sea-levels and surface air temperatures by virtue of the fact that they will also be the beneficiaries of greater technology and other resources.⁵³ In short, Beckerman thinks that it would be unfair to the worst off members of the present generation to invest a great deal of energy and resources on the climate change problem which could otherwise be spent on alleviating present suffering. Beckerman and Malkin, for example, argue that

⁵² See IPCC, 1996a, p.7.

⁵³ Wilfrid Beckerman, *Small is Stupid: Blowing The Whistle on the Greens*, pp.96ff.

Global warming is far more glamorous and telegenic, of course, than the need for better toilets and drains in the Third World. But if we truly care about the welfare of our fellow world citizens, it is these kinds of environmental issues upon which we must focus our attention.⁵⁴

There are at least some grounds for being sceptical about Beckerman's view, however, for much depends here on empirical evidence about (1) the exact impact which climate change will have on future quality of life and (2) the extent to which future generations will be beneficiaries of technological advancements which enable them to adapt to these impacts - and this empirical evidence is simply unavailable at present. It is at the very least possible that the impacts of global climate change will have such profound long-term effects that they will bring about a lowering in the quality of life for future generations relative to their predecessors. To the extent that the IPCC's recent research suggests that this is at least possible, then, this research is of ethical importance for prioritarrians.

4. Equality, Priority, or Sufficiency?

In contrast to egalitarians and prioritarrians, some theorists of distributive ethics, such as Harry Frankfurt, have claimed that social and economic benefits should be distributed in line with the ideal of *sufficiency*. The view here is that as many people as possible should have enough, or in other words sufficient, to pursue the aims and aspirations they affirm (where the aims and aspirations which are ethically relevant

⁵⁴ See W. Beckerman and J. Malkin, 'How Much Does Global Warming Matter?', *The Public Interest*, 114, 1994, pp.15-16.

are defined by some objective account of human well-being).⁵⁵ It is important to note that 'having enough', here, cannot be equated with just having enough to make life bearable in the sense that one does not *regret* one's existence. Rather it involves both the fact that a person experiences no 'substantial distress or dissatisfaction with his life' and that the dissatisfaction that he does experience could not be offset or reversed by an additional allocation of resources.⁵⁶ People have enough on Frankfurt's view only when they have the wherewithal to discover what they really care about and what will actually satisfy them.

There are three main sufficiency based objections to thinking in terms of equality or priority. First, that both of these ideals, but particularly equality, has no apparent justification and is actually dangerous in virtue of eclipsing what a distributive theory should really take seriously, to wit, bringing as many people as possible up to the point where they have enough (where *enough* is defined in objective terms). Second, that the concerns which lead many writers to endorse what they think are egalitarian positions are actually grounded, at a deeper level, in considerations of sufficiency.⁵⁷ Third, that these ideals are less easily operationalised or attained than the ideal of sufficiency.⁵⁸ After a brief review of the first objection, I turn to the intergenerational application of the sufficiency view and the relevance to it of the IPCC's claims about climate change.

⁵⁵ Harry Frankfurt, 'Equality as a Moral Ideal', *Ethics*, 98, October 1987, p.21 - original emphasis. See also A. Rosenberg, 'Equality, Sufficiency, and Opportunity in the Just Society', in E.F. Paul, F.D. Miller, and J. Paul, eds., *The Just Society*, pp.54-71; and Arneson, 'Equality', pp.496-500.

⁵⁶ Frankfurt, 'Equality as a Moral Ideal', pp.39-40.

⁵⁷ For Frankfurt's argument that many egalitarians, such as Dworkin, appeal at a deeper level to considerations of sufficiency, see 'Equality as a Moral Ideal', pp.32-4.

⁵⁸ See Rosenberg, 'Equality, Sufficiency, and Opportunity in the Just Society', pp.66-70.

4.1 The Divisiveness of Egalitarianism and Prioritarianism

According to Frankfurt, the key flaw in theories of equality of outcome ‘lies in supposing that it is morally important whether one person has less than another regardless of how much either of them has.’⁵⁹ What matters, Frankfurt argues, ‘is not that everyone should have *the same* but that each should have *enough*. If everyone had enough it would be of no moral consequence whether some had more than others.’⁶⁰

This does not mean, however, that a concern to equalise peoples’ holdings of resources, for example, will *always* run counter to the concern that as many people as possible have enough. If this egalitarian concern has the result that more people are brought up to the point where they have enough, then the values of equality and sufficiency will converge (that is, so long as an equal division of resources will not result in nobody having enough). If Bill, for example, has less of what makes life go well than Ben, and in fact Ben has just about enough whereas Bill has not, then both equality and sufficiency (as well as priority) will converge in requiring that Bill be given extra resources so that he is brought up to Ben’s (i.e. the sufficiency) level.

Recall the case of *Distribution 1*. Here the payoffs were as follows:

(1) all at 50 (2) half at 40, half at 70 (3) half at 20, half at 80

Suppose that the sufficiency level for all were 50. Then equality, priority, and sufficiency will all apparently require the same distribution be enforced, namely, (1).

⁵⁹ Frankfurt, ‘Equality as a Moral Ideal’, p.34.

⁶⁰ Frankfurt, ‘Equality as a Moral Ideal’ - original emphasis.

In such cases, Frankfurt observes, ‘even if equality is not as such morally important, a commitment to an egalitarian social policy may be indispensable to promoting the enjoyment of significant goods besides equality or to avoiding their impairment.’⁶¹

The differences between the three views only become manifest when we turn to the case of *Distribution 2*. Recall that the payoffs here were the following:

(1) half at 49, half at 46 (2) half at 60, half at 45 (3) half at 40, half at 40

Suppose, again, that the sufficiency level for all was 50. Here, whereas the equality view (on some interpretations) would favour allocation (3), and the priority view would certainly favour allocation (1), the sufficiency view would favour allocation (2) - as this would be the only allocation where *at least some people* had enough to be content. It is in this sort of case that Frankfurt thinks that egalitarianism and prioritarianism contribute ‘to the moral disorientation and shallowness of our time.’⁶²

A different example which explains what Frankfurt is getting at here is the following.

There are two groups in some society, one of which is *very rich* and the other merely *rich*, where the latter have many more resources than the former, where both groups have enough resources, and where the inequalities are undeserved. Resource egalitarians will claim that the *rich*, here, ought to be compensated for their relative resource deficit. Moreover, they will argue that the case for this compensation will be as strong as some other case for compensation grounded in some proportionate inequality between a moderately well off and a very poor population.

⁶¹ Frankfurt, ‘Equality as a Moral Ideal’, p.22.

⁶² Frankfurt, ‘Equality as a Moral Ideal’, pp.22-3.

When we turn to the sufficiency view, however, the case for compensating the *merely rich* population for their relative impoverishment falls away altogether. This is because compensating the rich in such circumstances will not bring it about that anyone who did not have enough *before* will have enough *after* compensation is awarded. It is not the fact that those badly off have *smaller shares* of resources that should be worry us, Frankfurt thinks, but rather that they have such small shares that they simply do not have enough.⁶³ Frankfurt writes, 'there is no necessary conceptual connection between a person's relative economic position and whether he has needs of any degree of urgency [for] it is possible for those who are worse off not to have more urgent needs or claims than those who are better off because it is possible for them to have no urgent needs or claims at all.'⁶⁴ According to the sufficiency view, then, there is a wholly contingent relation between what a person requires in order to have enough and the question of whether he is the worst off in some population.

4.2 The Sufficiency View and Intergenerational Ethics

The Distribution Two example shows that, at least in principle, the ideals of equality, priority and sufficiency can all diverge in what they require of distributive ethics in both *intergenerational* and *intragenerational* contexts. Moreover, we have at least some reason (grounded in the wide ranging research of the IPCC into the impacts of climate change) to think that future generations, and the persons which belong to them, may inherit fewer resources than are required for them to have enough to meet their basic needs, or exercise their basic capabilities.

⁶³ Frankfurt, 'Equality as a Moral Ideal', p.33; Arneson, 'Equality', p.497.

⁶⁴ Frankfurt, 'Equality as a Moral Ideal', p.35.

Two examples of note concern the issues clean air and food security. People require a certain quality of air, and food, in order to pursue whatever it is they really care about. It is true that there are limits to the purity of air, or to the quality of food, which are necessary for a person to have enough to pursue whatever the life plan they endorse. However, to the extent which the actions of members of successive generations damage air and food quality for their successors with the result that these successors cannot pursue the life-plans which they both affirm and are objectively valuable, then this would seem to violate the principle of sufficiency.

It should be of little surprise, then, that the sufficiency view has attracted considerable support in environmentalist circles in the guise of the pre-eminent understanding of 'sustainable development.' According to this understanding, sustainable development is 'development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.'⁶⁵ The idea here is that intergenerational ethics requires that existing persons not act so as to leave members of future generations without enough, but that this does not mean that they must leave for them either exactly the same, or indeed a more abundant, range of natural resources as they themselves inherited from previous generations.⁶⁶

⁶⁵ The World Commission on Environment and Development, *Our Common Future*, Oxford, Oxford University Press, 1987, p.43.

⁶⁶ Note that the sufficiency version of the sustainable development idea will result in a somewhat less demanding set of intergenerational requirements than its egalitarian counterpart, according to which 'each generation is entitled to inherit a planet and cultural resource base *at least as good* as that of previous generations' (see IPCC, 1996c, p.15n - emphasis added).

5. Other theories of intergenerational ethics

I hope to have shown in this chapter that the IPCC's research on climate change does indeed raise important questions of intergenerational distributive ethics that are robust across the equality, priority, and sufficiency views. This is because climate change will impact upon the issue of who will have a lower quality of life, who will be worst off, and who will have enough both *within* and *between* the generations to come. However, it also seems reasonable to assume that it will raise similar questions for other ethical views which have distributive significance, such as *communitarianism* and *libertarianism*.

Climate change would appear to raise questions for libertarians, for example, in virtue of the fact that it threatens to render people in the future *worse off* than they otherwise might have been if this change had not occurred.⁶⁷ Libertarians such as Robert Nozick, for example, tend to embrace the notion that, even if it is not the responsibility of public institutions to provide positive benefits for existing or future members of society, acts or social policies which render people worse off through no fault of their own are impermissible. Consequently, many libertarians have endorsed the principle, derived from Locke, that appropriations and transfers of natural resources should not *harm* or *worsen* the condition of others, whether these others belong to their generation or not. According to Nozick's version of the Lockean principle, for example,

⁶⁷ See Robert Nozick, *Anarchy, State, and Utopia*, pp.161ff. As I will argue in chapters 5 and 6, considerations of Non-Identity considerably complicate the application of worsening, or harm-based, ethical requirements to issues of intergenerational distribution.

the crucial point is whether appropriation of an unowned object worsens the situation of others . . . A process normally giving rise to a permanent bequethable property right in a previously unowned thing will not do so if the position of others no longer at liberty to use the thing is thereby worsened.⁶⁸

Nozick's version of the Lockean Proviso is rather weak. It is markedly *less* restrictive on the class of acquisitions and transfers of natural resources which it will prohibit being appropriated than the Lockean version of the proviso it is based upon.⁶⁹ However, even this principle will still prohibit the depletion of much of the Earth's stock of non-renewable natural resources by earlier generations so long as we assume that the future generations who will suffer as a result of the bad effects of depletion and climate change are not net gainers from the system of private property which provided the context for these to occur. Because this seems a reasonable assumption, it would seem that the IPCC's research raises questions even for Nozickian libertarians.⁷⁰

Next consider the communitarian view of ethics. Communitarianism is not easily pinned down in terms of a stable set of ideas. However a key idea to be found in many communitarian accounts does have intergenerational ethical application. This is that one's obligations of distributive ethics are owed *only, mainly, or at least more*

⁶⁸ Nozick, *Anarchy, State, and Utopia*, pp.175, 178.

⁶⁹ See G.A. Cohen, *Self-Ownership, Freedom, and Equality*, Cambridge, Cambridge University Press, 1995, pp.74ff.

⁷⁰ Robert Elliot defends a similar conclusion in 'Future Generations, Locke's Proviso, and Libertarian Justice', *Journal of Applied Philosophy*, 3, 1986. He writes that, 'provided that libertarian justice involves some such device as Locke's proviso the enforcement of substantial environmentalist policies comes within the ambit of the liberal minimalist state' (p.217).

extensively to those who belong to one's own political, or ethical, community. This appears to raise the possibility that communitarians will not view environmental problems caused by the members of one community for another as raising questions of distributive ethics.

However, as suggested in a recent book by Avner de Shalit, even if it were the case that communitarians were committed to radical restrictions on the scope of *inter-community* distributive ethics amongst contemporaries, it seems that they would be much less likely to embrace similar restrictions on the scope of *intra-community* distributive ethics amongst non-contemporaries. This is because most communitarian accounts conceptualise ethical, or political, communities as being entities which have an inherently intergenerational or intertemporal dimension.⁷¹ Here, on virtually any view of what a communitarian view of intergenerational ethics amounts to, the IPCC's findings concerning the largely, if not uniformly, adverse future effects of climate change appear to be of major relevance. Put simply, the failure of existing persons to address global environmental problems, such as climate change, will jeopardise the future integrity of the cultures and communities they belong to. One particularly striking example of the vulnerability of nations to climate change, for example, concerns the way in which climate change induced global sea-level rises are expected to impact negatively upon the economic and cultural practices of coastal regions and small-islands.⁷²

⁷¹ See Avner de Shalit, *Why Posterity Matters*, London, Routledge, 1996, Chapter 1. See also Peter Marshall, 'Thinking for Tomorrow', *Journal of Applied Philosophy*, 10, 1, 1993, pp.113-4.

⁷² I return to this issue in Chapter 6.

This cursory look at two other ethical theories suggests, I think, that the IPCC's findings raise intergenerational ethical questions for a much wider range of theories than discussed in detail earlier under the heading of equality, priority, and sufficiency - that is, on the assumption that the best way to approach intergenerational ethical issues lies not in attempts to construct a wholly novel theory, but rather in the extension of familiar principles of intragenerational distributive ethics. However, the possibility that there might be independent reasons which undermine the view that familiar theories of distributive ethics can be extended in this way has yet to be addressed. Thus, some of those sceptical about the possibility of far reaching norms of intergenerational distributive ethics claim that, due to the problems of Non-Reciprocity and Non-Identity, the 'extensional assumption' I have relied upon is flawed. In what follows, I devote most of my time to an examination of whether or not such sceptical claims are defensible.

Chapter 3: The Non-Reciprocity Problem

1. Introduction

Theories of distributive ethics can usefully be divided into two types. There are those which posit a strong connection between the scope of principles of distribution and the notion of reciprocity, and there are those that posit no such strong connection. One way of explaining this is to say that we can distinguish between theories of distributive ethics by the way they answer the following question: 'Are duties of distributive ethics owed only to agents who can engage in mutually beneficial, that is reciprocal, interaction with us?' Any theory of distributive ethics which responds 'no' to this question, I will say, denies that there is any strong connection between distributive ethics and reciprocity. I shall call such theories *non reciprocity-based* distributive theories. Any theory that responds 'yes' to this question, however, does appear to posit a strong connection between the ideas of ethics and reciprocity, and consequently I shall call these *reciprocity-based* distributive theories. One reason for distinguishing between, and evaluating the relative merits of, reciprocity-based and non-reciprocity based theories of distribution is that they appear to diverge markedly in the accounts they will offer of how social and economic benefits should be distributed across generations.

In this and the next chapter I want to consider the claim that the lack of reciprocity evident in dealings between persons belonging to different generations means that the distributive theories considered in the last chapter cannot, after all, be extended to cover issues of intergenerational distribution; and consequently that such theories

cannot be appealed to in order to explain why social policies which reduce the long-term threats of climate change ought to be adopted. As such, the aims of this chapter are two-fold. First, to provide an overview of reciprocity-based theories of distributive ethics and the way in which they would seem to be inimical to the idea that present persons have extensive duties of to persons belonging to future generations. Second, to investigate some interesting ways in which reciprocity-based theories of ethics might be modified in order for them to be reconciled with certain norms of intergenerational obligation.

Throughout the chapter, I will be assuming, as a background hypothesis, what might be called the *Asymmetry View*. According to this view, existing persons are in a position to harm or benefit members of future generations in a number of important ways with no fear of retaliation (or indeed hope of requital). By contrast, I will argue in the next chapter that the Asymmetry View is not beyond criticism, and will attempt to draw out the coherence, and some of the implications, of the claim that there are ways in which people who belong to remote generations can interact with each other in mutually beneficial ways. This, it will be argued, strengthens the claim that reciprocity-based ethical theories can be applied to questions of intergenerational distributive ethics.

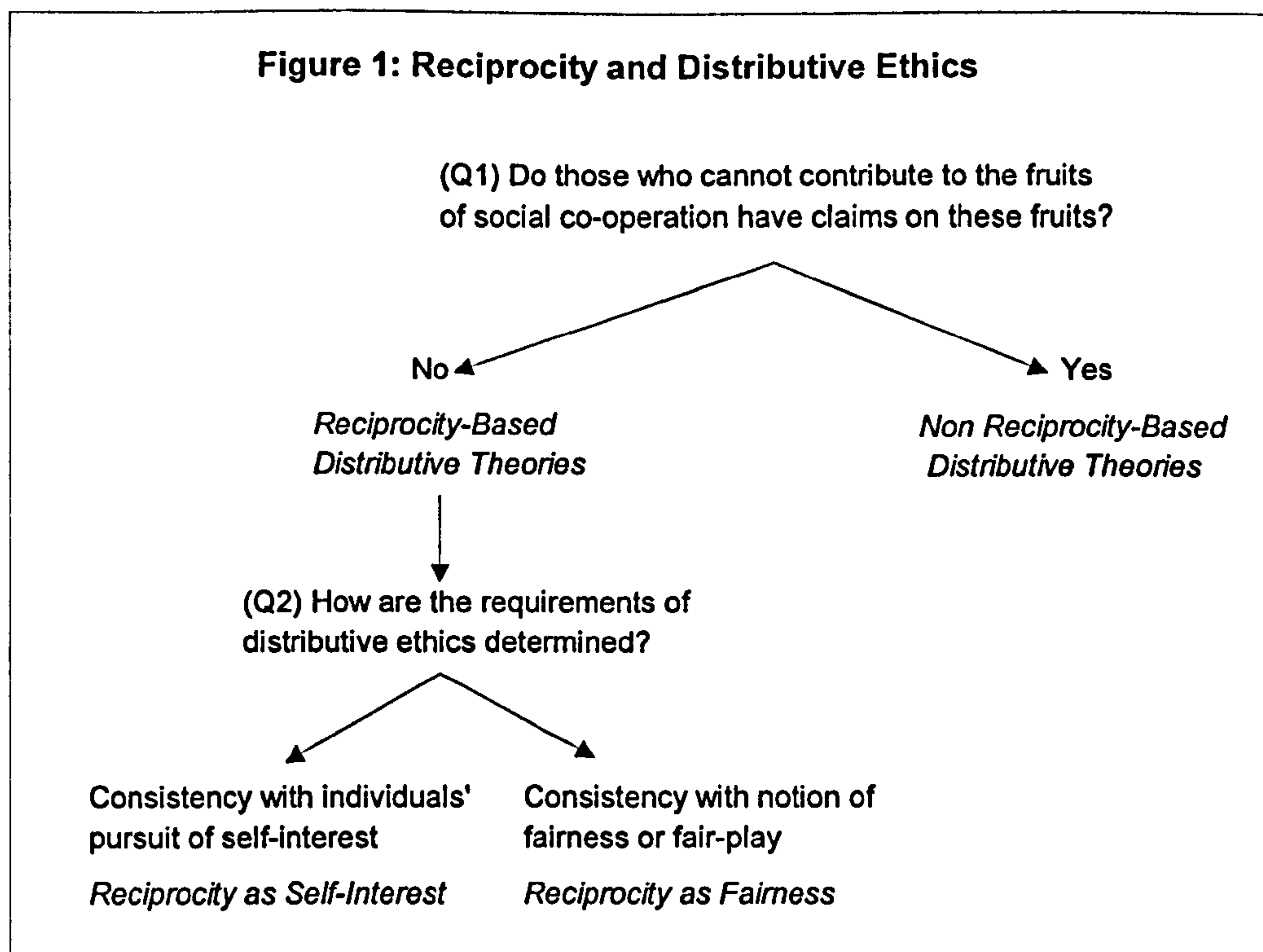
In the next section, I outline briefly two alternative sets of reciprocity-based theories of distributive ethics. In section 3, I explain how the intergenerational extension of both sets of theories are prone to the problem that there can be no dealings of mutual benefit between persons belonging to different generations (I call this the *Non-Reciprocity Problem*). I also go on to discuss two ways in which reciprocity-based

theories might be saved from the Non-Reciprocity Problem in some revised form. In section 4, I go on to argue that the Non-Reciprocity Problem does not call into question the intergenerational extension of a large range of theories which deny that the scope of distributive ethics is determined by considerations of reciprocity. Finally, in sections 5 and 6, I develop in greater detail two lines of thought which seek to explain how persons can be obliged, on grounds of fair reciprocity, to do things for the sake of future persons even if there exists no direct dealings between people belonging to different generations.

2. Reciprocity-Based Distributive Ethics

The central premise of reciprocity-based ethics is that only individuals who possess the potential to contribute to others' well-being are owed ethical duties. We might call this the *Contribution Requirement*. Here the fact that a person is especially needy, and would benefit greatly from receiving certain resources, does not *in itself* mean that they have any claim to these resources. That is to say, the scope of reciprocity-based ethics is *sensitive* to an agent's contributiveness and *insensitive* to an agent's needs.

There are two sets of reciprocity-based theories. The first proposes that the requirements of distributive ethics are determined by considerations concerning the way in which individuals seek to pursue their own self-interest; the second proposes that the requirements of distributive ethics are determined by considerations of fairness or fair-play. The relation between these two sets of theories, and those which deny that the presence of distributive claims are linked to issues of social contributiveness, is explored in Figure 1 and in the following two sections.



2.1 Reciprocity as Self-Interest

According to reciprocity-based theories which appeal to a notion of self-interest to determine the requirements of distributive ethics (hereafter, theories of Reciprocity as Self-Interest), ethical requirements must be consistent with the pursuit of advantage of the individuals who are bound by those requirements. The Hobbesian variant, for example, proceeds from the claim that individuals naturally seek their own advantage, to the idea that if *everyone* pursued their advantage without constraint (i.e. in the absence of a 'common power to keep them in awe'), there would result a war of 'every man against every man.'¹ Here we have the Hobbesian perspective of a state of nature where peoples' lives would be 'solitary, poore, nasty, brutish, and short.'²

¹ Thomas Hobbes, *Leviathan*, London, Penguin, 1968, Part I, Chapter XIII, p.185.

² Hobbes, *Leviathan*, Part I, Chapter XIII, p.186.

This, Hobbes argues famously, would be a significantly worse outcome (in terms of advantage) for everyone concerned than if certain 'articles of peace', regulating social co-operation and interaction and so forth, were agreed upon.

According to David Gauthier's derivation of this view, the only way to generate norms of distributive ethics is to do so as 'a rational constraint from the non-moral premises of rational choice.'³ Here the existence of such norms are defensible only insofar as they can be shown to be *rational*, and they are rational only if they are conducive to the interests of rational individuals whose overriding goal is to pursue their own good. As 'constrained' self-interested utility maximisers, Gauthier argues, persons will agree on, and comply with, ethical requirements given (1) it is in their own interest to do so and (2) the selection of these requirements is the outcome of a rational bargaining situation which reflects the relative bargaining powers of individuals. So long as these two conditions are satisfied, Reciprocity as Self-Interest can be counted on to generate constraints on the pursuit of self-interest 'as the minimum price that has to be paid in order to obtain the co-operation of others.'⁴

2.2 Reciprocity as Fairness

Suppose I have promised a friend to give him a lift to the airport. He, in return, has promised that he will wash my car when he gets back from his trip. Some time later while he washes my car, as promised, we discuss the connection between the notions of ethics and reciprocity. He suggests that he is returning the favour so that we will both continue to do each other favours in the future, and in so doing we will both

³ Gauthier, *Morals by Agreement*, Oxford, Clarendon Press, 1986, p.4.

⁴ See Barry, *Theories of Justice*, p.6.

better pursue our respective individual self-interests. I suggest, however, that when I return his favours I do this, not only to 'keep the favours rolling' as it were, but for some reason which is more 'intrinsically reciprocal.'⁵ I suggest further that I would prefer to keep the promises I make to people who treat me well even if this would quite obviously not maximise my individual self-interest. Finally, I claim that if I found out that my friend had reneged on some duty of reciprocity owed me, I would let him know how disgusted I was with him, even if it would positively harm me to do so.

Anyone sympathetic to such a view recognises the ethos of reciprocity-based theories which appeal to the notion of fairness in order to specify the requirements of distributive ethics (hereafter theories of Reciprocity as Fairness). Here it is a particular notion of fair-play, and not merely prudential self-concern, which lies at the heart of the justification of ethical obligations; the idea, as Rawls puts it, is that 'we are not to gain from the co-operative labours of others without doing our fair share.'⁶

But how, exactly, one might ask, do theories of Reciprocity as Fairness differ from (i) theories of Reciprocity as Self-Interest on the one side and (ii) non reciprocity-based theories on the other? The difference between Reciprocity as Fairness and non reciprocity-based theories is best explained by exploring the general weaknesses of reciprocity-based ethics, to which I return in section 4.1. The difference between Reciprocity as Fairness and Reciprocity as Self-Interest, though, is easier to define. It

⁵ See Allan Gibbard, 'Constructing Justice', *Philosophy and Public Affairs*, 20, 1991, pp.266ff.

⁶ Rawls, *A Theory of Justice*, p.112. Rawls' discussion of the duty of fair-play draws upon an earlier treatment of this idea by H.L.A. Hart. See Hart, 'Are There Any Natural Rights', *Philosophical Review*, 64, April 1955, pp.185ff.

exists since, unlike theories of Reciprocity as Self-Interest, Reciprocity as Fairness does not propose that distributive ethics is grounded on the idea of rationality as the maximisation of individual advantage; here persons are motivated to act reciprocally not simply out of self-concern, but also because the disposition to act reciprocally has itself some intrinsic merit.

Writers such as Gauthier, of course, claim that motivations of fairness are justifiable *purely* on self-interested grounds. Part of his theory of 'constrained' utility maximisation is that it is rational to cultivate a disposition to reciprocate fairly given the transparency of human motivations (if one cheated on one's reciprocal duties or agreements, Gauthier thinks, this would be seen as it were 'on one's face' and consequently he regards such cheating as being imprudent). Nevertheless, such motivations do not, for Gauthier, possess any kind of non-prudentially grounded value or virtue in their own right.⁷ This defines the basic disagreement between Gauthier and proponents of Reciprocity as Fairness, such as Gibbard.

3. The Non-Reciprocity Problem

The IPCC's recent research suggests that, if concerted and far reaching action to reduce GHG emissions is not taken in the near future, climate change could well bring about a lowering of the quality of life for future generations. However, it also appears that actions to avoid, or adapt to, the adverse consequences of climate change will require certain sacrifices to be borne by persons belonging to existing and

⁷ Gibbard, 'Constructing Justice', p.266.

proximate future generations, particularly regarding those residing in developing countries.

Suppose that, in spite of these sacrifices, stringent legally binding agreements on the reduction of global GHG emissions had been secured at the recent Kyoto meeting of the parties to the UNFCCC, as opposed to the rather modest cuts which were agreed in reality.⁸ Suppose, in addition, that the parties to these agreements abide by them in the future.⁹ The members of future generations which the IPCC predict will be the main beneficiaries of these agreements will never, it seems, be in a position to repay the members of predecessor generations for their restraint in this regard. On the other hand, as we have seen, some hold that the requirements of distributive ethics oblige us to act so as to provide benefits for others, including members of different nations or generations, only if these persons are in a position to benefit us in return. If this view can be defended, it seems that members of present generations are required to conserve resources only for the sake of members of future generations, such as their children and grand-children, with whom they share some real possibility of entering into dealings of mutual benefit or reciprocity.

⁸ Although the reaction to the Kyoto Protocol to the UNFCCC has been mixed, the general consensus amongst the global climatological community appears to be that, even if adhered to, the cuts will not go very far towards avoiding the adverse consequences which climate change will have on future generations. This is mainly because the rapidly expanding GHG emissions of developing countries are not included in the protocol's terms, and these emissions will outweigh any future cuts in emissions made by developed countries. See 'Getting Warmer, but still a long way from our goal', *The Independent*, Friday 12 December 1997, p.19; 'All that Kyoto heat, for next to nothing', *The Guardian*, Thursday 11 December 1997, p.1; and 'Kyoto Deal Will Not Stop Global Warming', Friends of the Earth Press Release (<http://www.foe.co.uk/publisinfo/infoteam/pressrel/1997/19971211101102.html>).

⁹ This itself requires a certain leap of faith. To be effective, any legally binding international agreement designed to reduce GHG emissions must secure the full co-operation and ratification of the US. However, this itself requires that it be ratified by US Congress and many commentators have argued that this is unlikely to happen in the foreseeable future. See, for example, and 'Mixed reaction to Kyoto agreement', *BBC World News*, Friday December 12 1997 (http://news.bbc.co.uk/hi/english/world/newsid_38000/38504.stm).

Let us call this the *Non-Reciprocity Problem*. The basis of the Non-Reciprocity Problem is captured in Barry's observation that:

On the face of it, there is no room for justice as reciprocity to operate between people who are not alive at the same time. The man who asked what posterity has ever done for us got to the heart of the problem. Since, in the nature of the case, posterity cannot do anything for us, there can be no obligation arising from justice as reciprocity to do anything for posterity.¹⁰

Other writers sceptical of the intergenerational application of reciprocity-based theories of distribution include Rawls, Goodin, Pogge, and Kymlicka.¹¹ However, none of these writers claim that present persons have no duties of distributive ethics to future persons. Rather they all regard the key to the construction of a robust theory of intergenerational obligation as the rejection of reciprocity-based ethics.

It is interesting, however, that these writers devote little if any time to the crucial premise that future persons can be harmed or benefited by the predecessors but not vice versa. Rather this premise is treated as not requiring defence of any kind. Thus, Barry observes that 'we can be certain . . . that people alive in several centuries' time will not be able to do anything that will make us better off or worse off now, although we can to some degree make them better off or worse off',¹² and Rawls observes that

¹⁰ Barry, 'Justice as Reciprocity', in *Democracy, Power and Justice*, Oxford, Clarendon Press, 1989, p.483.

¹¹ See Robert Goodin, *Protecting the Vulnerable*, Chicago, University of Chicago, 1985, p.177; Rawls, *A Theory of Justice*, pp.291ff; Thomas Pogge, 'Review of *Theories of Justice*', *Journal of Philosophy*, 87, 7, July 1990, p.382; and Will Kymlicka, 'Two Theories of Justice', *Inquiry*, 33, 1990, pp.105ff.

¹² Barry, 'Justice Between Generations', in P.M.S. Hacker and J. Raz, *Law, Morality and Society: Essays in Honour of H.L.Hart*, Oxford, Clarendon Press, 1977. p.270.

‘It is a natural fact that generations are spread out in time and actual exchanges between them take place only in one direction. We can do something for posterity but it can do nothing for us.’¹³

Perhaps these writers endorse this premise of asymmetric dealings between generations, which I referred to above as the *Asymmetry View*, in virtue of the apparent absurdity of the notion of *backwards causation*. Here, whatever the persons of the further future think about us, the lives we choose to live in the present, and the events of the past in general, the impossibility of causal chains being anything other than unidirectional means that future persons, when they come into existence, will not be in a position to change any aspect of the way in which their dead ancestors lived their lives. Members of future generations could not, for example, bring it about that tougher measures to combat climate change had been adopted in Kyoto in December 1997, for, as Aristotle observed, even God cannot change the past.¹⁴

Suppose, next, that neither the modest measures agreed upon in Kyoto, nor any further measures agreed upon in the near future, prevent many of the unpleasant long-term consequences of climate change outlined in Chapter 1. The low regard which the future victims of these consequences will form of our generation could not, it seems, have any causal influence over the environmentally damaging actions (or social policies) which our generation performed (or adopted). In this sense, generations to come always seem to be at the mercy of the action, negligent or otherwise, of their predecessors. Of course, the *expectations* which presently existing persons have concerning the potential effects of their actions on their successors may well play a

¹³ Rawls, *A Theory of Justice*, p.291.

¹⁴ See Aristotle, *Nicomachean Ethics*, London, Penguin, 1953, 1139b6-10.

role in the choices they make, particularly when these choices will obviously have significant implications for future well-being. But this is not to say that future persons themselves will have a causal influence on the behaviour of their ancestors. So one feature of a world without backwards causation is that persons, and groups, who exist in the present appear to be wholly invulnerable to the actions of persons, and groups, who will come into existence in the further future.

I will argue in the next chapter that the Asymmetry View is more contentious than writers such as Barry and Rawls assume, and that this suggests that the scope of reciprocity-based ethics might be wider than is often thought. However, let us retain this view of dealings between generations for the time being. On the assumption that Barry and Rawls are correct in thinking that present persons can benefit (or harm) the vast majority of their successors with no hope (or fear) of requital, to what extent does the Non-Reciprocity Problem undermine the intergenerational extension of (i) theories of Reciprocity as Self-Interest, and (ii) theories of Reciprocity as Fairness? I attempt to answer this question in the next two sections.

3.1 Reciprocity as Self-Interest and the Non-Reciprocity Problem

Recall that Gauthier attempts to ground 'impartial constraints on the maximisation of individual utility by appealing to the benefits of co-operation.'¹⁵ The problem is that social co-operation requires the existence of mutual interaction of some form or other. On the Asymmetry View, however, co-operation takes place only between contemporaries, so a present individual accepting a constraint on his pursuit of self-

¹⁵ Gauthier, *Morals By Agreement*, p.298.

interest in order to benefit future persons would appear to be bringing about a simple transfer of utility from him to future persons. Moreover, Gauthieran contractual parties must be aware of this fact, for Gauthier does not make use of a veil of ignorance to shield the knowledge of his individual utility maximisers' invulnerability to future persons. Here, principles of distributive ethics are to be selected from an initial situation characterised by fair bargaining between persons who have *full knowledge* of their situation. This is important because, according to Gauthier, theories of ethics 'must explain and justify why people need to accept in their *real situation*, principles that they would have accepted had they been bargaining in a situation that lacked any moral constraints.'¹⁶

Nor is the refusal to adopt such constraints a violation of the proviso (namely to leave 'enough and as good' for others) which Gauthier borrows from Locke. The proviso, Gauthier claims, 'prohibits bettering one's situation through interaction that worsens the situation of another.'¹⁷ However, the benefits which members of present generations derive from appropriating resources do not depend upon any pattern of interaction obtaining between present and future persons. Gauthier writes that

Any costs that [individuals] impose on future persons are strictly incidental to the benefits [they receive]. They cannot then be violations of the proviso. So an individual does his descendants no injustice in not concerning himself with them.¹⁸

¹⁶ Avner de Shalit, 'Bargaining With The Not-Yet-Born', *International Journal of Moral Social Studies*, Autumn 1990, p.229.

¹⁷ Gauthier, *Morals By Agreement*, p.205.

¹⁸ Gauthier, *Morals By Agreement*, p.298. See also K. Sauve, 'Gauthier, Property Rights, and Future Generations', *Canadian Journal of Philosophy*, 25, 2, 1995, pp.164-5.

In short, then, Gauthier holds that (a) one can only violate the proviso if one renders a person whom one interacts with worse off, (b) persons belonging to future generations cannot interact with persons belonging to the present generation, and therefore (c) even if present persons render future persons worse off by adopting profligate policies regarding fossil fuel and GHG emission and so forth, this will not amount to a violation of the 'enough and as good' proviso.

It is perhaps surprising, therefore, that Gauthier attempts to defend a much more *positive* application of his theory to the issue of intergenerational distributive ethics by arguing that 'the moral relations among adult members of society may be extended to involve the young as future contributors giving a contractarian rationale for practices of inheritance and investment.'¹⁹ This is because 'each person interacts with others both older and younger than himself, and enters thereby into a continuous thread of interaction extending from the most remote human past to the farthest future of our kind' with the result that 'mutually beneficial co-operation directly involves persons of different but overlapping generations.'²⁰ The idea is that the potential benefits reaped by any generation refusing to abide by an intergenerational contract will be outweighed by the need to prolong the agreement reached with later, proximate, generations, and as a result of this need, Gauthier argues, the 'exhaustion of the world's resources does not present itself as an option.'²¹ This has been called the '*Continuing Contract Argument*.'²²

¹⁹ Gauthier, *Morals By Agreement*, p.269.

²⁰ Gauthier, *Morals By Agreement*, p.299.

²¹ Gauthier, *Morals By Agreement*, p.299.

²² Sauve, 'Gauthier, Property Rights, and Future Generations', p.166.

There are at least two serious problems with the Continuing Contract Argument, however. Firstly, there will be many cases in which there will be no outweighing benefits associated with being faithful to the existing intergenerational 'contract.' What benefits are available, for example, for the generation which adheres to an existing agreement with a non-proximate, or non-overlapping, past generation? Here persons inhabiting some later generation have already gained the lion's share of the agreement it had with previous generations, and now faces only costs in order to keep the agreement alive for the sake of coming generations. Moreover, nothing can apparently prevent a later generation refusing to honour the requirements of an intergenerational contract as there are no sanctions which can be brought to bear against such a rogue generation 'going its own way.'²³

Secondly, and perhaps more importantly, not to exit a contract which a generation has already benefited from appears, on Gauthier's own terms, *irrational*. While a sense of self-interested reciprocity would in *intragenerational* cases often suffice to prevent a party from leaving the contract, this is precisely what is absent in dealings between persons belonging to remote or distant generations. So even if proximate generations can reach agreements according to the dictates of Gauthier's theory of bargaining, distant generations cannot, for in Gauthier's terms it cannot be rational for a member of any generation to constrain his pursuit of utility for the sake of someone he cannot co-operate or interact with. Gauthier fails to show that ethical requirements can be generated in the intergenerational context because it is not necessarily *rational* for generations to co-operate with later generations of the further future.

²³ de Shalit, 'Bargaining With The Not-Yet-Born', pp.227-8.

3.2 Reciprocity as Fairness and the Non-Reciprocity Problem

Given the above problems, Reciprocity as Self-Interest appears to be untenable as a constitutive, rather than sceptical, approach to intergenerational distributive ethics. Can the same be said about Reciprocity as Fairness? If the idea of fairness is meant to bind present persons and their distant successors, then the export of Reciprocity as Fairness to the intergenerational context appears as equally suspect as its self-interested stable-mate. This is because members of future generations will benefit from the goods present persons produce and save for them without any need to contribute fruitfully to their construction.

Consider Rawls' articulation of this point. Rawls remarks that reciprocity-based principles apply normally 'when there is an exchange of advantages and each party gives something as a fair return to the other.'²⁴ But, as he goes on to argue, over the course of history

no generation gives to the preceding generations, the benefits of whose saving it has received. . . each generation makes a contribution to later generations and receives from its predecessors.

The first generation may benefit hardly at all, whereas the last generations, those living when no further saving is required, gain the most and give the least.²⁵

²⁴ Rawls, *A Theory of Justice*, p.290.

²⁵ Rawls, *A Theory of Justice*, p.290. This explains why Rawls fails to apply the Difference Principle to questions of intergenerational distribution, for later generations cannot improve the situation of 'the least fortunate' initial generation. In fact, in its intergenerational application this principle would apparently require that there ought to be no saving at all for the sake of future generations (see section 5 below).

Rawls is making the point here that there may well be a sort of “chronological unfairness” in both the present generation sacrificing itself *too much* for the sake of successor generations, as well as failing to sacrifice itself *enough* for the sake of successor generations. Perhaps surprisingly, this idea is almost wholly overlooked in recent literature on intergenerational distributive ethics.

Another writer who appears to have been sensitive to such concerns was Alexander Herzen. According to Isaiah Berlin, Herzen claimed that, ‘human development is a form of chronological unfairness, since late-comers are able to profit by the labours of their predecessors without paying the same price.’²⁶ And, like Herzen and Rawls, Kant was similarly worried. Kant remarks that

earlier generations seem to perform their laborious tasks only for the sake of the later ones, so as to prepare for them a further stage from which they can rise still higher the structure intended by nature. . . only the later generations will in fact have the good fortune to inhabit the building on which a whole series of their forefathers. . . had worked without themselves being able to share in the happiness they were preparing.²⁷

It is important to note that the point which Rawls, Herzen and Kant are trying to make here is *not* that we ought not sacrifice ourselves for the sake of future generations

²⁶ As quoted by Isaiah Berlin, in his introduction to F. Venturi’s *Roots of Revolution*, New York, Alfred Knopf, 1960, p.xx. Berlin also notes the concurring opinion of Chernyshevsky who, according to Berlin, remarked ‘history is fond of her grandchildren for it offers them the marrow of the bones, which the previous generation had hurt its hands in breaking’ (pp.xx-xxi). See also Rawls, *A Theory of Justice*, pp.290-1.

²⁷ I. Kant, ‘Idea for a Universal History with a Cosmopolitan Purpose’, in H. Reiss, ed., *Kant’s Political Writings*, Cambridge, Cambridge University Press, 1970, p.44.

because we have nothing to gain from our distant successors. Rather they are making a distinct point about the apparent *unfairness* of one generation sacrificing itself for the sake of the next when the next generation will enjoy the benefits of the savings without contributing to their production. Either present persons constrain their actions in various ways or they do not. If they *do not* then (considerations of Non-Identity aside) persons in the future may lose out; if they *do* then they, present persons, will lose out and future persons will gain. Either way, members of future generations cannot contribute in any *direct* fashion to the well-being of their ancestors in return for their earlier restraint. In deciding to save the first, or existing, generation will be sacrificing itself for the benefit of persons who are non-contributive to its well-being and incapable of restraining themselves in line with the demands of fairness.

3.3 Four Inconsistent Beliefs

One way of explaining the dilemma which the Non-Reciprocity Problem raises for those who are attracted to both reciprocity-based theories of distribution and certain norms of intergenerational distributive ethics is to show that these people wish to retain four, apparently inconsistent, beliefs. These are

- (1) performing acts, or adopting social policies, which threaten the well-being of members of future generations is wrong because it will violate certain requirements of distributive ethics.
- (2) requirements of distributive ethics are owed only to those who can *reciprocate* with those who are bound by those requirements.

(3) reciprocity exists only between those persons who can interact with each other through some, direct, causal pathway.

(4) the vast majority of future persons will never be in a position to engage in activities which will have a direct, causal, impact on members of previous generations.

It seems that holders of the reciprocity-based view must (a) abandon the thought that distributive ethics can be extended intergenerationally beyond the nearest of generations (belief 1), (b) abandon their commitment to some aspect of reciprocity-based ethics (beliefs 2 and 3), or (c) abandon the view that present persons are not vulnerable to the actions of their distant successors (belief 4). The problem is that beliefs 2, 3 and 4 are, for reciprocity-based theorists, hard to resist. In particular, belief 4 seems sound on any view of inter-temporal interaction.

It seems, therefore, that if the notion of intergenerational distributive ethics is to be defended, the idea that distributive ethics might be reciprocity-based must be dropped; or if the notion that distributive ethics is reciprocity-based is to be defended, then the idea of far reaching norms of intergenerational distributive ethics must be dropped. In fact, the dilemma here is captured nicely in an example created by Parfit:

Suppose that I leave some broken glass in the undergrowth of a wood. A hundred years later this glass wounds a child. My act harms this child. If I had safely buried the glass, this child would have walked through the wood unharmed. Does it make a moral difference that the child whom I harm does not now exist? On one

view, moral principles cover only people who can reciprocate, or harm and benefit, each other. If I cannot be harmed or benefited by this child, as we can plausibly suppose, the harm that I cause this child has no moral importance.²⁸

Suppose that we put aside the suggestion that the scope of distributive ethics is not determined by the issue of reciprocity at all (a suggestion that I return to in section 4). There appear to be at least two ways in which the proponent of reciprocity-based distributive principles might respond, and both of these solutions turn on revising belief (3) in order that they might retain beliefs (1), (2), and (3). According to the first approach, it is claimed that a person, *A*, can engage in dealings of reciprocity with another person, *C*, even if there is no possibility of any genuine two-way causal interaction between *A* and *C*. This is because *A*, for example, might be in a position to engage in two-way causal interaction with a third-party, *B*, who in turn might be in a position to engage in two-way causal interaction with *C*. We might call the distinctive understanding of reciprocity evident in dealings between *A* and *C*, here, *indirect reciprocity*; and where *A* and *C* turn out to be members of different generations, the relation between them might be termed one of *indirect intergenerational reciprocity*. In effect, then, the first approach recommends we revise (3) to claim

(3') reciprocity exists only between those persons who can interact with each other through some *direct* or *indirect* causal pathway.

²⁸ Parfit, *Reasons and Persons*, pp.356-7. Parfit's response to this dilemma is to reject the reciprocity-based view, and his response is endorsed, amongst others, by Hillel Steiner (Steiner, *An Essay on Rights*, p.259).

According to the second approach, it is simply denied that to be engaged in dealings of reciprocity our two persons, *A* and *C*, must have the capacity to engage in two-way causal interaction - for example, by bringing about changes in each others' intrinsic properties. This is because *A* can bring about changes in *C*'s well-being which do not require that *A*'s activities have any causal impact at all on *C*'s person - for example, by frustrating *C*'s deeply held desires or interests in way that has no tangible impact on *C*'s physical or mental life. We might call the distinctive category of reciprocity evident between *A* and *C*, here, *non-causal reciprocity*; and where *A* and *C* turn out to be members of different generations, the relation between them might be termed one of *non-causal intergenerational reciprocity*. In effect, then, the second approach recommends we revise (3) to claim

(3') reciprocity exists only between those persons who can interact
with each other through some *casual* or *non-causal* pathway.

In sections 5 and 6 of this chapter I discuss two alternative articulations, or models, of indirect intergenerational reciprocity.²⁹ The first of these develops a version of Reciprocity as Fairness where the fairness doing the work in the theory binds contemporaries, but is grounded in a chain of concern which connects members of successive generations. I call this the *Chain of Concern Model*. The second develops a version of Reciprocity as Fairness where the fairness doing the work binds present and past persons, and which is grounded in the obligation to pass on to future persons the benefits bequeathed to present persons by their predecessors. I call this the

²⁹ I return to the second approach in the next chapter.

Trusteeship Model. Before I discuss these views, however, I want to discuss some limitations on the scope of the Non-Reciprocity Problem.

4. The Limits of the Non-Reciprocity Problem

Even if we suppose that the Non-Reciprocity Problem is of relevance for some theories of intergenerational distributive ethics, it does appear that considerations of non-reciprocity do not raise problems for *all* such theories. Moreover, the theories which it does appear to undermine (i.e. reciprocity-based theories) seem implausible on independent grounds. Finally, at best it only seems to undermine the view that future persons are owed *positive* duties of ethics. These three considerations suggest that there are important limits to the scope of the Non-Reciprocity Problem, and I outline each below.

4.1 Non Reciprocity-Based Theories of Distributive Ethics

Many, if not all, of the distributive theories proposed in recent years seem inconsistent with the idea that there exists a strong connection between the notion of reciprocity and the scope of distributive ethics. Such *non reciprocity-based* theories of ethics do not appear to be undermined by considerations of non-reciprocity, for they reject the thought that resources should only be allocated (across generations or otherwise) to those that can contribute to the well-being of others. As such, an extraordinary range of distributive theories will count as non reciprocity-based -

including *utilitarian* and *contractualist* theories - and this is underlined by recent statements of the key proponents of these theories.³⁰

Perhaps the most important set of non reciprocity-based theories are those which assume that 'basic rights to resources are grounded not in the individual's strategic capacities but rather in other features of the individual herself - her needs or nonstrategic capacity.'³¹ These have been called *subject-centred* theories.³² The label 'subject centred' is meant to convey the fact that, on this view, the scope of distributive ethics is determined with respect to features of individuals which are independent of their ability to affect others for the better or worse. Subject-Centred ethics, then, holds that the ethical status of persons and the issue of contributiveness are independent.

At the heart of subject-centred ethics is the idea of the fundamental 'equality of persons.' The idea of equality, of course, can be taken in a number of different ways, and grounded in different theories. So the fact that subject-centred ethics does not ascribe rights to persons on the basis of their productivity, still less their ability to threaten others, leaves a wide variety of options available to ground this fundamental equality. One option might be to focus on quite high level conditions of rational agency, another might be to focus on sentience. The common thread running through these alternative ways of pursuing the moral equality idea, though, is the denial that

³⁰ See Parfit, *Reasons and Persons*, pp.356ff; and T.M. Scanlon, 'Contractualism and Utilitarianism', in A. Sen and B. Williams, eds., *Utilitarianism and Beyond*, pp.115ff.

³¹ See Allen Buchanan, 'Justice as Reciprocity Versus Subject-Centred Justice', *Philosophy and Public Affairs*, 19, 3, 1990, pp.231ff.

³² In fact, Buchanan describes theories which endorse the quoted statement subject-centred theories of *justice*, but I do not think that anything significant turns on this difference.

the issue of a being's ethical standing is somehow determined by their ability to contribute to others' well-being.

In common with theories of Reciprocity as Fairness, subject-centred ethics celebrates non-egoistic motivations to behave justly. Barry, a leading exponent of subject-centred ethics, for example, argues that the motive for behaving justly is 'the desire to act in ways that can be defended to oneself and others without appealing to personal advantage.'³³ And Scanlon, whose work Barry draws upon, remarks that according to the theory he calls *contractualism*, 'the source of motivation that is directly triggered by the belief that an action is wrong is the desire to be able to justify one's actions to others on grounds they could not reasonably reject'³⁴

4.2 The Counter-Intuitive Implications of Reciprocity-Based Distributive Ethics

Suppose that, despite the attractions of non reciprocity-based theories, we retained the view that distributive ethics was at least partly *reciprocity-based*. One problem is that the implications of reciprocity-based ethics appear to conflict starkly with many people's considered convictions about both the scope and contents of distributive ethics. In particular, this sort of theory seems irreconcilable with widely held beliefs about the rights and moral status of persons (or other entities) who cannot contribute to social co-operation, whether this arises from these people bearing certain natural disabilities (e.g. these people are permanently comatose) or that they possess talents

³³ Barry, *Theories of Justice*, p.361.

³⁴ Scanlon, 'Contractualism and Utilitarianism', p.116. Scanlon adds, 'reasonably, that is, given the desire to find principles which others similarly motivated could not reasonably reject.'

which are not drawn upon due to features peculiar to the society they live in (e.g. that these people are involuntarily idle).

In fact, there are two groups at risk of ethical disenfranchisement on a reciprocity-based view.³⁵ The first group contains people (such as those who suffer from crippling disabilities from birth or those who belong to different generations) who possess some natural disadvantage which entails that they lack the capacities necessary to contribute to the well-being of others. The second group contains those (such as the unemployed or imprisoned) who have the capacity to contribute, but who are prevented from doing so by existing social arrangements. Reciprocity-based theories, it seems, will need to address the problems associated with the ethical status of these two groups if they are to offer an account of global or intergenerational distributive ethics which even remotely matches the convictions which most people entertain on these matters.

Consider the position of the first group of persons liable to ethical disenfranchisement under reciprocity-based views. Many people, such as those who are congenitally weak or members of distant or future generations, seem to be excluded from the domain of Reciprocity as Fairness because of their inherent inability to benefit others in society.³⁶ On the other hand, most of us believe that withholding certain benefits

³⁵ See Gibbard, 'Constructing Justice', pp.272ff.

³⁶ Compare with Hume's well known remark that

were there a species of creature intermingled with men, which, though rational, were possessed of such inferior strength, both of body and mind, that they were incapable of. . .[making] us feel the effects of their resentment. . . we should be bound by the laws of humanity, to give gentle usage to these creatures, but should not, properly speaking, lie under any restraint of justice with regard to them (David Hume, *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*, Oxford, Clarendon Press, 1975, p.190).

(such as food or nutrition or shelter) from the non-contributive would be impermissible. As a result, reciprocity-based theories presuppose a view of the scope of distributive ethics which strikes many as overly exclusive. Even if it could be maintained that many of these groups who appear on the surface to be non-contributive are in fact contributive, the point here is that this is not the sort of sophisticated manoeuvring that a theory of distributive ethics ought to require to bring such groups into its fold. According to Barry, for example, the claims of the severely handicapped, minors, impoverished foreigners, and future persons lie well within the scope of distributive ethics, and because reciprocity-based theories cannot accommodate this thought they are flawed.³⁷

Consider next, the second group of persons vulnerable to disenfranchisement under reciprocity-based views. Suppose a group of potential contributors could be enslaved, and subsequently excluded from the terms of voluntary co-operation. These persons could contribute to others' benefit if they were given the chance, so in this respect their position is quite different from the position of those - such as the not-yet-born - who cannot contribute *in principle*. Even so, in such a circumstance the slavers would appear to owe no obligations of fair reciprocity to their slaves. As Gibbard observes, 'If an extant fair scheme of social co-operation included everyone, then everyone is owed fairness',³⁸ and in such circumstances the requirements of this brand of

It is worth noting that there is some doubt about whether this remark is an early statement of a reciprocity-based ethic (as Barry has claimed) or whether Hume is merely making the explanatory, rather than normative, claim that norms of distributive ethics will only arise and be respected in contexts where certain conditions, such as relative equality of power, arise (as Pogge has claimed). See Barry, *Theories of Justice*, pp.186ff; and Thomas Pogge 'Review of *Theories of Justice*', *Journal of Philosophy*, 87, 7, July 1990, pp.380-83.

³⁷ Barry, *Justice as Impartiality*, Oxford, Clarendon, 1995, pp.40ff.

³⁸ Gibbard, 'Constructing Justice', p.273.

reciprocity-based ethics seem consistent with those of subject-centred ethics. However, if not everybody is not included in this scheme, then there will be some people who are not owed *anything* - at least no positive ethical duties.³⁹

This raises the problem that, since the ability of a person to contribute is inevitably influenced by social conditions and practices which in fact will vary from society to society and over time (that is, being a contributor is relative to the co-operative framework one is located in), reciprocity-based theories seem ill placed to offer an account of whether these relativities are themselves permissible or not, and thus whether those excluded from co-operation are so excluded permissibly. This is because they only claim to offer an account of why those who happen to be capable of fruitful co-operation, and who belong to an already existing framework, will recognise each other as having claims of distributive ethics. But evaluating the extent to which a certain 'frame of co-operation' is actually *just* or not, so the argument goes, is perhaps one of the most central things we ordinarily demand of a theory of distributive ethics. This might be thought to mark out a serious limitation of reciprocity-based theories.⁴⁰

4.3 Negative Versus Positive Duties

The third issue which limits the importance of the Non-Reciprocity Problem is that it only seems to call into question the scope of *positive* requirements defined by

³⁹ The above example is not, of course, as far fetched as it seemed. In the period between 1933 and 1945 millions of Jews were effectively, and systematically, denied the ability to contribute to the schemes of social co-operation operating in their countries despite the fact that their ability to contribute *in principle* remained intact.

⁴⁰ See Buchanan, 'Justice as Reciprocity versus Subject-Centred Justice', p.236.

reciprocity-based theories of ethics. The idea is that duties of reciprocity, as grounded in either considerations of fairness or self-interest, are plausible only when thought of as being restricted to the distribution of the fruits of social co-operation; but perhaps the most important aspect of the problem of intergenerational ethics, at least when theorising about environmental problems such as climate change, concerns duties *not to harm* the members of future generations or other nations, for example, by our profligate GHG emissions. So long as we think that reciprocity-based ethics is consistent with there being *negative* duties to those who are so weak that they cannot contribute to the well-being of others, it seems that even reciprocity-based ethics is consistent with the existence of quite stringent duties not to harm these persons, even if there are no *positive* duties to come to their aid as such.

The notion that the duties of reciprocity are not exhaustive of the ethical obligations incumbent against us has been put well by Hart. Hart claims that

[an] important source of special rights and obligations we recognise in many spheres of life is what may be termed mutuality of restrictions . . . When a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who submitted to the restrictions when required have a right to a similar submission from those who have benefited by their submission.⁴¹

But these are *special* rights and obligations in the sense that they are owed to some, but not all, and are *not* exclusive of the range of obligations we have to others. As a

⁴¹ H.L.A. Hart, 'Are There any Natural Rights', *Philosophical Review*, 64, April 1955, p.185.

result, considerations which undermine the presence of these obligations (such as those pertaining to the non reciprocity-problem) do not necessarily undermine the presence of other non-special, or in other words *universal*, obligations.⁴²

I have argued in the above sections that reciprocity-based theories are subject to certain serious flaws; that there is an alternative sort of distributive theory which is neither subject to these flaws nor to the Non-Reciprocity Problem; and that if we view reciprocity-based theories as being theories of positive (rather than negative) obligation, even this type of theory is consistent with certain requirements of intergenerational ethics.

At this point, it might be questioned whether any further investigation into the implications of the Non-Reciprocity Problem is warranted. My response to this is two-fold. Firstly, much theorising about the scope of distributive ethics, and in particular intergenerational distributive ethics, has been located around the Non-Reciprocity Problem. Secondly, despite the way in which reciprocity-based ethics (particularly in its self-interested incarnation) violates our intuitions about the scope of distributive ethics, it remains a much discussed theory even in the context of *intragenerational* ethics.

⁴² On the distinction between special and universal obligations, see O'Neill, *Towards Justice and Virtue*, pp.125ff. It is worth noting that Gauthier rejects the idea that his version of the reciprocity-based ethic only specifies positive ethical duties. This is demonstrated by his discussion of the 'Purples' and 'Greens' (see Gauthier, *Morals by Agreement*, pp.283-87; Buchanan, 'Justice as Reciprocity and Subject-Centred Justice', pp.250-1).

5. The Chain of Concern Model

The Chain of Concern Model of intergenerational ethics is premised on the idea that, to the extent that people generally share a sentimental concern for the well-being of their nearest of descendants, this well-being can be treated as a public good; and as with other public goods, fairness requires that all capable people play their part in contributing to the cost of its upkeep. Here, present persons have obligations 'with respect to' rather than 'to' members of future generations; or, to put it slightly differently, although these obligations arise in part from sentimental concerns for future persons, they are owed to present persons.

Although there are various formulations of the Chain of Concern Model in circulation, I will concentrate here on the one advanced by Rawls in *A Theory of Justice*. There are two good reasons for doing this. First, Rawls' version of the model is by far the most widely discussed. Second, and perhaps more importantly, it stands out among the alternative versions of the Chain of Concern Model as an attempt to rescue the idea of a fairness-based reciprocity ethic from the Non-Reciprocity Problem.

The main features of Rawls's theory of justice are well known, and the *egalitarian* strand to his thinking was discussed in the previous chapter. For Rawls, social and political principles required as rules for the design of just institutions are those that would be chosen by rational, self-interested, persons in a hypothetical contractual situation (the *original position*) behind a *veil of ignorance* which precludes them certain types of knowledge, for instance regarding their prospective social identities, tastes and preferences. As there are no known preferences or tastes in the original

position, the contracting parties define social outcomes in terms of *primary goods*, which are generalised resources, such as liberty and opportunity, wealth and income, and which enable persons to pursue their life-plans or conceptions of the good regardless of what these actually turn out to be.⁴³

The result of the deliberations of the contracting parties in Rawls's construction, since they are ignorant of their prospective identities, is that principles which discriminate in favour of, or against, any one individual or group (regardless of the grounds for this discrimination) cannot be adopted in the original position. The contracting parties will, however, adopt two fundamental principles of justice. The first is the *Principle Of Equal Liberty*, which holds that, 'each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.'⁴⁴ The second is the *Difference Principle*, which states that, 'social and economic equalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged, and (b) attached to offices and positions open to all under conditions of fair equality and opportunity.'⁴⁵

There is also held to be a clear system of priorities operating amongst these principles. Rawls takes the principle of equal liberty as fundamentally prior to the Difference Principle, such that benefits or advantages that come under the latter should not be 'traded-off' against those liberties protected by the former. In addition, with regard to the difference principle, the idea of fair equality of opportunity (i.e. (b)

⁴³ Rawls modifies his account of primary goods in later work (see Rawls 'Social Unity and Primary Goods', pp.16ff), but as he had abandoned the Chain of Concern Model before these modifications were made I concentrate on the account of 'justice as fairness' offered in *A Theory of Justice*.

⁴⁴ Rawls, *A Theory of Justice*, p.302.

⁴⁵ Rawls, *A Theory of Justice*, p.302.

above) is to be taken as prior to the idea that inequalities must benefit the least advantaged (i.e. (a) above).

One last preliminary point worth making is that these principles are to be applied to what Rawls calls the 'basic structure of society' rather than to the actions, choices, or deliberations of individual persons (although he does not deny that this structure will undoubtedly have an effect on the standards individuals apply to their own personal conduct). The basic structure, then, marks out 'the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation.'⁴⁶

The question arises whether this theory can be reconciled with the sort of duties of intergenerational ethics which would require each generation to preserve a flourishing natural environment for the sake of their successors. There is at least some reason to doubt that it can. Take the idea that each generation ought to *save* a certain amount for the benefit of successor generations. Abiding by requirements of conservation will improve the prospects of later generations who benefit from it. On the other hand, endorsing this principle might well - depending on the the sentiments they entertain - be counter to the interests of the first, or early, generations of that society, because these generations will be required by the principle to sacrifice some of their prospects for the sake of the prospects of later generations with no possibility of requital.

Rawls has already specified, however, that the contracting parties (1) do not know which generation they belong to exactly but (2) they do know that they are all contemporaries: he calls this the *Present Time of Entry Interpretation*.⁴⁷ But because

⁴⁶ Rawls, *A Theory of Justice*, p.7.

⁴⁷ Rawls, *A Theory of Justice*, p.140; pp.287ff.

this assumption has more or less the consequence that the contracting parties consider themselves as the first generation of any intergenerational contract, they will have no reason based either on fairness or self-interest to adopt principles of savings or conservation. As Rawls himself writes, 'in the course of history no generation gives to the preceding generations, the benefits of whose savings it has received.'⁴⁸ Given that 'previous generations have either saved or not', then, for the contracting parties to adopt conservationist principles would seem to counter normal applications of the Difference Principle.⁴⁹ This is because such applications would seem to deny that a *worse-off* earlier generation can be required to save at all for the sake of a *better off* later generation. Rawls concludes that, as the Difference Principle cannot be appealed to in order to explain why earlier generations should conserve resources for the sake of their successors, and as such conservation seems essential if the conditions for distributive ethics or justice are to be maintained across time, issues of intergenerational distribution 'must be treated in another fashion.'⁵⁰

The 'other fashion' Rawls is referring to is his interpretation of the Chain of Concern Model. This model has two main components. First, an adjustment to the way in which the contracting parties are viewed. Second, an adjustment to the motivations which these contracting parties entertain. The first adjustment re-conceptualises the contracting parties as what Rawls calls representatives or heads of 'family lines.'⁵¹ I put this adjustment to one side. The second adjustment which Rawls makes, which I take to be more important in the present context, is an adjustment to the motivational

⁴⁸ Rawls, *A Theory of Justice*, p.290.

⁴⁹ Rawls, *A Theory of Justice*, p.292.

⁵⁰ Rawls, *A Theory of Justice*, p.291.

⁵¹ Rawls, *A Theory of Justice*, p.292.

base of the contracting parties such that they care about the welfare of some 'third parties.'

The 'third parties' which Rawls has in mind are the immediate descendants of the contracting parties. According to what he calls the *motivational assumption*, the contracting parties will, as a general psychological fact, be motivated by a psychological concern for their immediate descendants: and in this way there exist 'ties of sentiment between successive generations', as Rawls puts it.⁵² The contracting parties (viewed as representatives of family lines) desire to further the well-being of the next two or so generations. As such, the motivational assumption (as a psychological generalisation), appears to be compatible with his 'thin theory of the good' as well as an intuitively plausible conception of self-interest. It is also reconcilable with the assumption that the contracting parties are mutually disinterested, for, in *A Theory of Justice*, Rawls claims that the contracting parties are all members of one generation (though they do not know which generation this is) whereas the motivational assumption holds between members of different generations (and thus is not in conflict with an assumption of mutual disinterest between members of a single generation).⁵³

⁵² Rawls, *A Theory of Justice*, p.292.

⁵³ It is worth noting that in later work, Rawls himself abandons the motivational assumption in favour of the stipulation that principles of savings and conservation will be agreed to by the contracting parties on the assumption that all previous generations have also complied with it. Given the veil of ignorance shields the parties' knowledge of what generation they belong to (i.e. the 'present time of entry interpretation' is maintained) the problem of a generation free-riding on its predecessor's savings is removed. But there is still remaining a worry concerning the unfairness of such a principle when the veil is lifted for the first and subsequent early generations who will save without benefiting from the savings of previous generations. See 'The Basic Structure as Subject', in *Political Liberalism*, p.274.

The crux of Rawls' Chain of Concern Model is the thought that, as long as everyone in the present generation cares for someone in the next, this will be universalised into a constantly regenerating chain of concern which binds members of all generations, and which requires that a certain level of savings and investment be undertaken for the sake of later generations.⁵⁴ Rawls writes that each generation should 'preserve the gains of culture and civilisation, and maintain intact those just institutions that have been established' in addition to putting aside 'in each period of time a suitable amount of real capital accumulation.'⁵⁵ Put simply, then, Rawls chooses to represent the interests of future generations in the 'original position' by having their interests *virtually* represented.

Consider the issue of climate change. Sustaining present levels of GHG emissions will result, I have argued, in the despoliation of the natural environment left to our descendants. Because the processes of climate change, such as global warming and sea-level rises, are already under way it is likely that some of the bad effects of climatic change will occur within the life-time of the immediate descendants of existing persons (e.g. our children and grand-children).

⁵⁴ A similar view is held by John Passmore in his *Man's Responsibility for Nature*, London, Duckworth, 1974, pp.90-1. Passmore writes that there is

no novelty in a concern for posterity, when posterity is thought of not abstractly - as the future of 'mankind' - but as a world inhabited by individuals we love or feel a special interest in. . . Men do not love their grand-children's grand-children. They cannot love what they do not know. But in loving their grand-children. . . they hope that those grand-children, too, will have grand-children to love. . . by this means there is established a chain of love and concern running throughout the remote future.

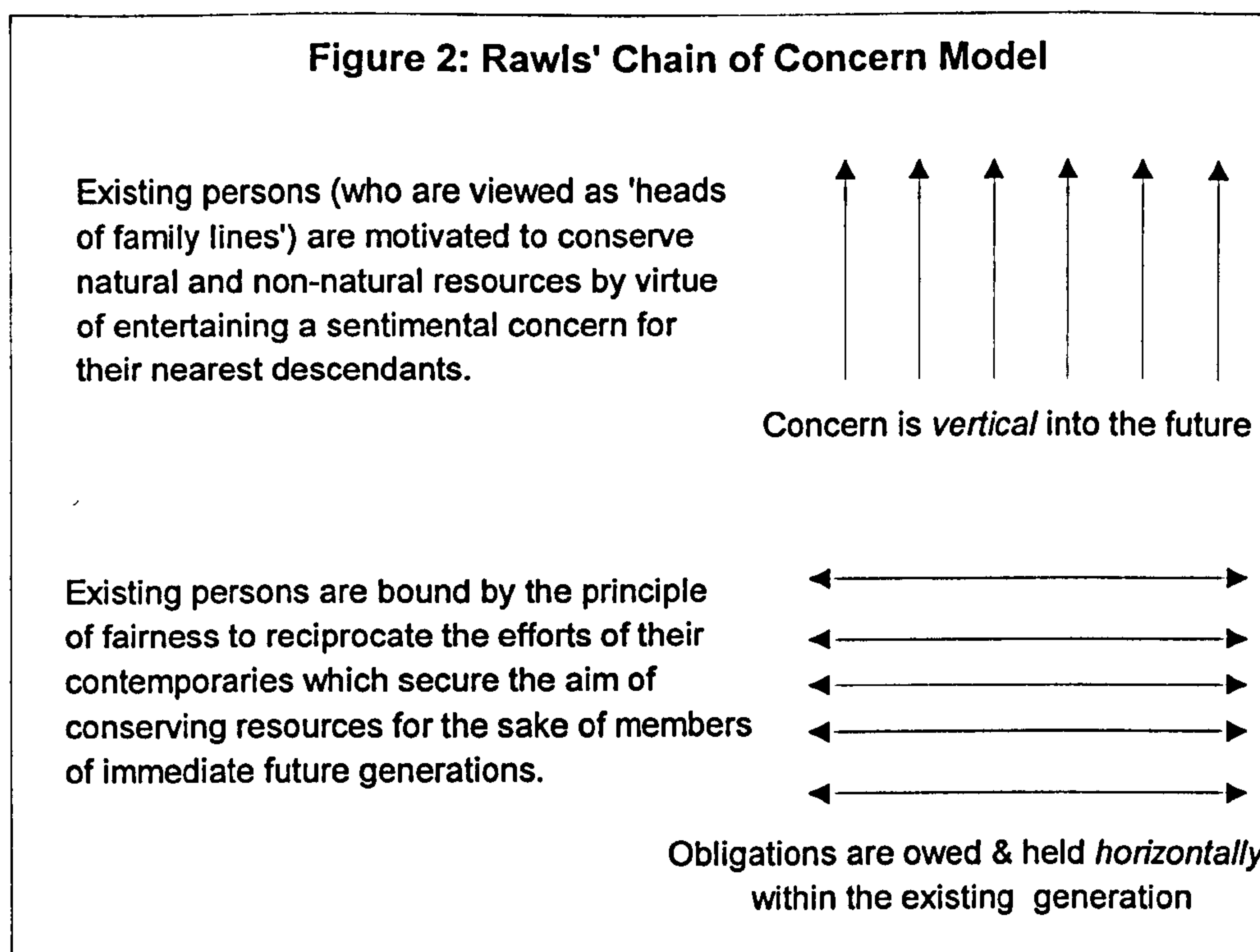
⁵⁵ Rawls, *A Theory of Justice*, p.285.

According to the Chain of Concern Model, each existing person (who can be thought of as a 'head' of a family line) will want to secure the conditions necessary for their children and grand-children to lead flourishing lives - conditions which are vulnerable to adverse changes in the climate system. But in order to preserve these conditions, it is necessary that all members of the present generation (or at least the governments who represent them) agree to implement social policies which protect the climate system, such as the modest reductions in GHG emissions negotiated at the Kyoto summit. Here the duties of intergenerational ethics are in fact owed to *other existing people*: given that we want our children and grand-children to prosper, it would be unethical for any of us not to contribute our fair share to collective efforts to secure a posterity free of climate change.

The essential elements of the Chain of Concern are explored in Figure 2 (on the next page).

5.1 Objections to the Chain of Concern Model

I have space to consider two problems with the Chain of Concern Model. The first concerns the position of those who are not motivated to conserve resources for the sake of their immediate descendants. The second concerns the possibility that some human practices might damage the environment which will be enjoyed by remote future generations with no similar impact on intervening generations.



5.1.1 People Who Are Not Motivated To Save For Their Descendants

The 'Chain of Concern' model assumes that if *A* cares for his son, *B* for his, *C* for his and so on, it will be not only mutually beneficial, but in addition a matter of *fairness*, for the *A-Z* population to agree to save (collectively) for the sake of the next generation. As such, the model assumes that every person is in fact moved to care for their descendants.

It is clear, though, that this stipulation is certainly false for at least some persons who lack children and the sentimental attachment to children who are not their own, and yet the model will presumably not be ready to exempt these people from the hardships of saving for other persons' children. Rawls' view, for example, implies that these people will be required to bear certain sacrifices in order to save for other

people's children, and one might think that this is itself unfair in the same way that one might think that a person who does not benefit from a co-operative activity ought not be forced to pay for its upkeep.

5.1.2 Harming Remote Future Generations

The Chain of Concern view seems quite naturally applied to questions of distribution between *proximate* generations, such as issues of savings and investment policy. However, it seems rather more limited in its application for questions of distribution between *remote* generations. The problem here is that certain acts, or social policies, might have extremely adverse impacts on *remote* future generations without bringing about similarly adverse effects on intervening generations, and the wrong-doing associated with these acts and policies does not seem obviously captured by the thought that they violate duties of savings or investment. Indeed, such acts could be required by principles of savings or conservation if it is known that they will protect the interests of proximate generations.

Rawls' Chain of Concern Model, for example, does not appear to generate any requirements against a generation polluting the environment, or choosing depletionist policies, when these pursuits will not merely *fail to improve*, but will also *gravely harm* distant future generations as his contracting parties are not taken to possess sentimental concerns for their remote descendants. So while the chain of obligation which this theory defines is constantly regenerating, the links in the chain do not bind in any direct fashion those belonging to remote generations, and as a result the intergenerational obligations which the Chain of Concern Model gives rise to appear

quite limited in scope. Indeed one Chain of Concern theorist states openly that the obligations we have in virtue of the chain 'are to *immediate* posterity, we ought to try to improve the world so that we shall be able to hand it over to our immediate successors in a better condition, and that is all.'⁵⁶

This is a significant shortcoming, however, because some of the environmental problems which mark out a context for questions of intergenerational distributive ethics will have bad effects which 'skip' many generations. After Barry, we might call these *sleeper effects*.⁵⁷ The problem which these sleeper effects pose is that it seems difficult to believe that present actions which result in a significant lowering in the quality of life enjoyed by members of remote future generations violate no distributive requirements, but this cannot be explained by the obligations generated by the Chain of Concern Model.

Take the example of climate change. Some of the bad effects of climate change will impact upon members of present persons and their immediate descendants. This will be the case, for example, of those living in *very* low-lying or *very* arid regions of developing countries. However, it might take several centuries before other climatic changes have any sort of negative effect on human populations. This seems likely to describe the position of the melting polar ice-caps, for instance. It would almost certainly take several hundreds of years of pronounced warming before either ice-cap was subject to significant melting. However, if this were to occur the implications for human (as well as non-human animal and plant) life would be immense.

⁵⁶ Passmore, *Man's Responsibility for Nature*, p.91.

⁵⁷ Barry, 'Justice Between Generations', p.279.

At this point one might suggest that the Chain of Concern Model can be interpreted to cover such cases in virtue of describing moral relations between persons belonging to different generations which are *transitive*.⁵⁸ After all, could we not make the leap of imagination that if we care for our nearest descendants, we also care for the concerns of these descendants and so on? The problem with this response is that it does not seem to provide a robust explanation of why we ought to cease environmental practices which will harm future persons who have little connection to us, or our children, because it assumes mistakenly that we ought to love the immediate successors of *our* immediate successors simply in virtue of the fact that *they* do. That is to say, the relation of sentimental concern which we are seeking to use to generate obligations of intergenerational distributive ethics is one of the most common instances of a *non-transitive* relation: we might love the loved ones of those we love but then again we might not. As de Shalit observes, 'if we love our children, we look after them. This, however, is not a sufficient justification for feeling obligations to people who will live three, six, or ten generations from now.'⁵⁹

It might be objected at this point that Rawls at no point claims that his Chain of Concern Model can explain the justification for duties of distributive ethics which present persons have to their remote successors. This might seem to be a rather thin response, given the overwhelming importance of these duties. It is important to note,

⁵⁸A relation is transitive if when A bears this relation to B, and B bears it to C, then A also bears it to C. Common transitive relations are 'being the same age' or 'being taller than.' A relation is intransitive if it is such that whenever X bears it to Y and Y to Z, X *does not* bear it to Z. Intransitive relations include 'being the father of' or 'being the next biggest number to.' A relation is non-transitive when it is neither transitive or intransitive: i.e. whenever P bears the relation to Q, Q to R, P *need not* bear the relation to R. Standard examples of non-transitive relations include 'loving', 'liking' and 'disliking.' See W.H. Newton-Smith, *Logic*, London, Routledge and Kegan Paul, 1985, pp.168-9.

⁵⁹ Avner de Shalit, *Why Posterity Matters*, London, Routledge, 1995, pp.32-3.

however, that Rawls seems to have an independent argument for the existence of duties of distributive ethics to remote future generations, although this argument is mentioned only briefly in *A Theory of Justice*. Rawls remarks that, in addition to the duties specified by the Chain of Concern Model, 'men have a natural duty to uphold and to further just institutions and for this the improvement of civilisation up to a certain level is required.'⁶⁰ Perhaps, then, the Chain of Concern Model should be viewed as merely one of a package of theories of intergenerational distribution, in particular the one which is concerned with obligations which can be reduced to a paradigm of *savings* and *accumulation*.

6. The Trusteeship Model

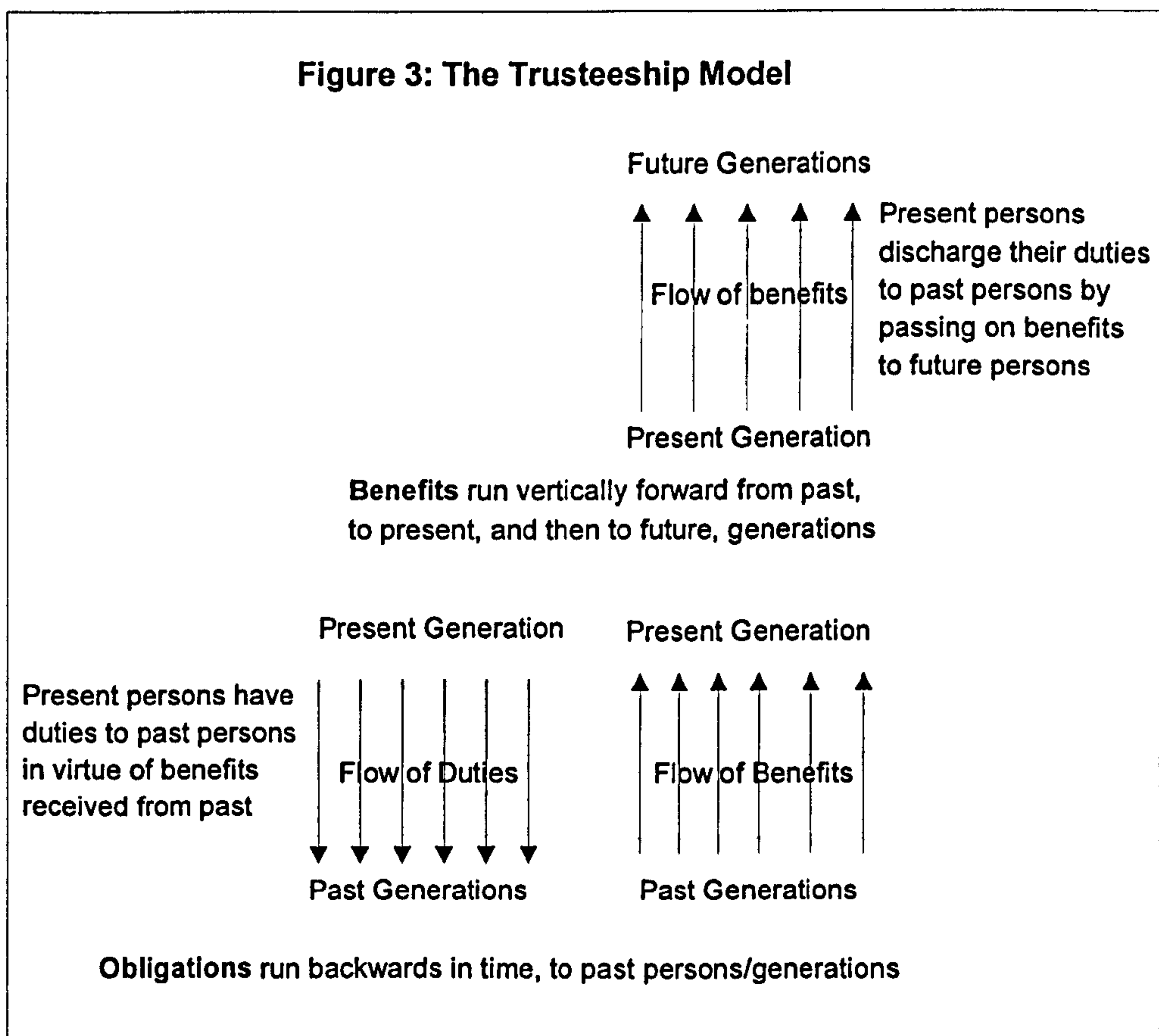
According to the *Trusteeship Model* of indirect intergenerational reciprocity, existing persons are obligated to protect the environment for the sake of their successors in return for the benefits which they have inherited from their ancestors.⁶¹ This view is explored in Figure 3 (on the next page).

As with the Chain of Concern Model, the strength of the Trusteeship Model is that it is not obviously undermined by the Non-Reciprocity Problem. This is because it grounds intergenerational obligations in the debts existing persons owe to their predecessors rather than their successors, and consequently in a more *indirect* understanding of reciprocity. Even if we accept that the lack of direct reciprocal dealings between different generations renders social co-operation with the not yet born untenable, this is not inconsistent with the thought that people possess duties to

⁶⁰ Rawls, *A Theory of Justice*, p.293.

⁶¹ See, for example, Barry, 'Justice as Reciprocity', p.483.

reciprocate for benefits inherited from their ancestors. So, unlike the case of future persons, there is at least a *prima facie* case that present persons might owe their ancestors something as a matter of fairness. On the other hand, because this view appeals to a conception of Reciprocity as Fairness, rather than of *self-interest*, it is not relevant that the Trusteeship Model cannot obviously be grounded in the *prudential* benefits of transmitting to future persons the goods we receive from past persons.



6.1 Becker's Model Of Intergenerational Trusteeship

The most thoroughly developed version of the Trusteeship Model is proposed by Becker.⁶² The general justification of duties of indirect reciprocity offered by Becker

⁶² Lawrence Becker, *Reciprocity*, London, Routledge, 1986, pp.229-51.

is as follows. A large proportion of the benefits which people receive in their lives is produced by persons with whom they have no face to face, or direct, exchanges. In such cases the identities of the producers of these benefits might be known, but despite this it might be impossible for the receivers to reciprocate these benefits for (1) nothing can be produced which the original producers might value or (2) even if it could, nothing could be made which could subsequently be transferred to, and received by, them.

This does not show, however, that there is no obligation to reciprocate for such benefits, for an obligation of reciprocity may remain in place even in situations where a mutual exchange of benefits is impossible. Here an obligation to reciprocate arises in any situation where a person finds himself in receipt of a good 'for which some sort of fitting and proportional return is possible, and it is often perfectly fitting to make our returns to people other than those who have benefited us.'⁶³ One example Becker gives to explicate this idea is that of a blood bank. Here the donors of blood do not identify or specify the person who should benefit from their donation. The donation is unspecified in this sense, though it is expected that those who will, or potentially might, benefit from the blood bank (virtually everybody in actual fact) ought to play a reciprocal part in contributing to the blood bank's survival.⁶⁴

Becker also thinks that duties of reciprocity - such as those relating to the blood bank - can be owed to persons who belonged to previous generations; and that a subset of such obligations can be discharged by producing some benefit for the sake of

⁶³ Becker, *Reciprocity*, pp.230-1.

⁶⁴ Becker, *Reciprocity*, pp.110-11; pp.230-1.

members of future generations. In fact, there appear to be four steps in his defence of duties of intergenerational trusteeship, which are roughly:

(1) much of the good which present generations benefit from in their lives was produced by past generations with the intention that it should be passed on to future generations.

(2) though the intended recipients of these benefits are not always specified, these benefits are nonetheless intended for someone ('for whomever might exist' as Becker puts it).⁶⁵

(3) the obligation to pass on, to reciprocate for, these benefits to future persons is analogous to the obligation to reciprocate for benefits received from unknown contemporaries (who also had indefinite intentions).

(4) it is 'fitting and proportionate', therefore, that we pass on these benefits by producing goods for the future, and in this sense acting in this way will 'in principle satisfy the moral requirements of reciprocity.'⁶⁶

So the 'fitting and proportionate return' in Becker's argument is owed to *past persons*, the obligation binds *present persons*, and the performance associated with this obligation is directed towards *future persons*. In this sense, then, it is a truly intergenerational understanding of reciprocity-based ethics, as all three tenses are doing some work in the argument.

⁶⁵ Becker, *Reciprocity*, p.231.

⁶⁶ Becker, *Reciprocity*, p.231.

6.2 Objections to the Trusteeship Model

I think that the main weaknesses of the Trusteeship Model can be traced to problems with these four premises, and in particular premises (1) and (4). Suppose we grant the general point that certain duties can be discharged only if we perform actions which benefit someone other than the party who is owed this performance, and that these duties can, at least in principle, be owed to past persons and discharged by benefiting future ones. It still might be objected that premise (1) is highly contentious.

As Barry argues, for example, there seems to be little evidence that our ancestors, beyond certain legally entrenched trusts, intended the good they produced to be preserved for the sake of remote future generations.⁶⁷ Premise (4), on the other hand, assumes precisely that it is fitting and proportionate that such goods be saved rather than consumed by present persons, for example the present impoverished, and this might seem hard to believe.

I consider these problems below.

6.2.1 Involuntary Receipt and Unintentional Production

The duties of intergenerational ethics specified by Becker's Trusteeship Model appear in many cases to have been grounded in the receipt of *unintentionally produced* and *involuntarily received* inherited goods. However, we do not normally assume that benefits which come as unintended side-effects of other peoples' actions give rise to obligations on the part of recipients to reciprocate for them. Suppose, for example,

⁶⁷ Barry, 'Justice as Reciprocity', p.486.

that a government adopts an initiative to reduce CO₂ emissions solely for the moderate benefits this will have for the well-being of existing people. A century later, however, it is demonstrated that this prior initiative also led to an unpredicted reduction, for one reason or another, in the incidence of certain varieties of cancer. We would not usually suppose that those belonging to later generations owe any obligations of requital to their predecessors for this unintentionally produced benefit. For, it might be asked, why should such good fortune generate any obligations of requital on behalf of its beneficiaries? Of course, if the link were known in advance and that was part of the reasons for the initiative being adopted, then this view would be more plausible.

Becker, however, argues that the receipt of unintentionally produced goods *does* give rise to obligations of reciprocity on the part of those that receive them, in particular to sustain and preserve the institutions or practices which enabled their production. 'We owe to the future' he argues 'only as much as we were given, and we must make our 'returns' in the very way we were benefited (e.g. intentionally or unintentionally), and to the very institutions that benefited us.'⁶⁸ But this seems to be as much a worrying, as it is a liberating, conclusion as far as intergenerational distributive ethics is concerned. For if we accepted that unintentionally produced benefits gave rise to the same duties as intentionally produced benefits we would be swamped by duties of reciprocation. Aside from the difficult issue of whether, on such a view, it is equally in line with the duty of reciprocity to preserve good or bad practices that we are

⁶⁸ Becker, *Reciprocity*, pp.238-9.

bequeathed unintentionally by our ancestors, we would have the problem of just how one makes a fitting and proportionate return for an indirectly produced good.

I say no more about the problem of unintentionally produced benefits because it seems clear to me that at least some of the benefits created for present persons have been more or less intentionally produced. Worries about the unintentional production of benefits bequeathed by past generations could not possibly, then, pose a *complete* objection to the Trusteeship Model.

Turning to the issue of *involuntary receipt*, the problems raised here seem even less soluble. This is because just about all of the benefits which our predecessors have passed down to us appear to have been foisted upon us in the sense that we could not possibly have refused them; and there is a large literature which calls into question whether benefits which are not received voluntarily confer any obligations of reciprocity on their beneficiaries. A great deal depends, for instance, on how wide the principle of fairness is that one works with.

Consider, for example, the question of whether, as someone who is benefiting from a certain social practice (or institution), a person has a duty of fairness to pay his fair share of the costs of this practice. In *A Theory of Justice*, Rawls, following the lead of H.L.A. Hart, claims that there are two conditions on an affirmative answer. First, that the benefit providing institution is just and, second, that the benefits concerned are voluntarily accepted.⁶⁹ Let us put the first condition to one side on the grounds that it brings unnecessary complications into the discussion.⁷⁰ If, as in Rawls' view, fairness

⁶⁹ Rawls, *A Theory of Justice*, pp.111-12.

⁷⁰ As pointed out by Garrett Cullity, 'Moral Free Riding', *Philosophy and Public Affairs*, 24, 1995, p.9.

is about making a fitting and proportionate contribution to benefits one receives only as a result of *voluntary* social co-operation, the fact that one did not willingly co-operate in the production (or receipt) of certain goods would mean both that (1) one has no duty to contribute to the production costs of such benefits, and (2) one has no right to such benefits in the first place.

This 'voluntary acceptance' condition is also canvassed by Nozick. In *Anarchy, State, and Utopia*, Nozick argues that benefits that have not been voluntarily accepted generate no duties of distributive ethics against the receiver to reciprocate for these benefits.⁷¹ Nozick cites the case of the nuisance who hurls books into people's houses, without prior solicitation, and later demands payment for the these unrequested books. Nozick concludes that in both this and in any relevantly similar case of involuntarily received benefit, there are no grounds for thinking the decision *not* to pay, or reciprocate, for such benefits is unfair: 'One cannot, whatever one's purposes', Nozick argues, 'just act so as to give people benefits and then demand (or seize) payment.'⁷² As Cullity puts it, Nozick's position in a nutshell is that such an implication 'would appear to ground an accusation of unfairness against the benefactors rather than the beneficiary.'⁷³

The Rawls-Nozick view, however, is not endorsed by all contributors to this debate. One suggestion regarding the relaxation of the Rawls-Nozick 'voluntary acceptance' condition which is of note is proposed by Arneson. He argues that there are cases in which involuntarily received benefits can give rise to obligations of fairness, but that

⁷¹ Nozick, *Anarchy, State and Utopia*, pp.95ff.

⁷² Nozick, *Anarchy, State and Utopia*, p.95.

⁷³ Garrett Cullity, 'Moral Free Riding', p.10.

these cases are limited to those where the goods in question are *non-excludable* - that is they cannot be provided for some without them also being provided for others. In simple terms, Arneson offers four necessary, and jointly sufficient, conditions on us claiming that 'those who contribute their assigned fair share of the costs of the scheme [of co-operation] have a right, against the remaining beneficiaries, that they should also pay their fair share.'⁷⁴ These are: (1) that the benefit concerned is non-excludable; (2) that the practice resulting in the benefits concerned be worth an equal cost to all benefited; (3) that there is fair division of the benefits concerned; and (4) that there is voluntary acceptance of the benefit, *or if there is no such acceptance then this acceptance is impossible to obtain.*

Although I have not the space here to prove it, it seems to me that all of these conditions will be met in the case of some of the benefits with which the Trusteeship Model is concerned. In particular, note that the sorts of inherited benefits with which we are most concerned with are precisely non-excludable public goods, such as clean air, a healthy climate system, or a flourishing cultural environment. I conclude that worries about the involuntary receipt of benefits bequeathed by past generations does not raise a decisive objection to the existence of duties of trusteeship when the right pre-conditions obtain.

7. Chapter Summary

In this chapter, I have dealt with some of the problems which face those who wish to extend reciprocity-based theories of distributive ethics to the intergenerational

⁷⁴ Arneson, 'The Principle of Fairness and Free-Rider Problems', *Ethics*, 92, 1982, p.623.

context. I began by demonstrating that, as a result of what I called the Non-Reciprocity Problem, there appears to be little room for such extensions. I then explored Barry's suggestion that there are two ways in which those sympathetic to reciprocity-based ethics might escape this conclusion. One was premised on the idea that present persons are obliged to conserve resources for the sake of future generations as a result of duties they owe to other contemporaries; the other on the idea that present persons are obliged to conserve resources for the sake of future generations as a result of duties they owe to their ancestors.

As I explained, both ideas are subject to formidable objections when conceived as complete solutions to the problem of intergenerational distributive ethics, but both seem to generate a limited range of obligations of intergenerational distributive ethics - even if we cannot, on these bases, speak of obligations *to* members of future generations in any direct sense. I hope to have shown, then, that so long as we appeal to some notion of fairness, even reciprocity-based views are consistent with the thought that there exist *some* obligations of intergenerational distributive ethics. In the next chapter, I attempt to defend the view that even endorsing the *self-interested* variant of reciprocity-based ethics is consistent with such obligations if the idea that people can be harmed after their death can be defended.

Chapter 4: Reciprocity and Posthumous Harm

1. Introduction

There are at least three reasons why students of intergenerational ethics might benefit from investigating the idea of posthumous harms in more detail than has been done previously. First, it appears to play an interesting role in attempts to save intergenerational applications of reciprocity-based theories from the Non-Reciprocity Problem. Second, the existence of posthumous harms suggests that the problem of intergenerational ethics, as conceived of as the problem of what obligations existing persons owe to future persons, has been wrongly characterised. Third, any re-characterisation of the problem of intergenerational ethics as a result of incorporating the phenomenon of posthumous harms would suggest a corresponding re-evaluation of theories of intergenerational ethics as trusteeship.

Let us briefly examine these three ideas in turn.

Firstly, recall that the Non-Reciprocity Problem relies on two key premises, one normative and the other descriptive. The normative premise maintains that persons who cannot engage with us in mutually beneficial dealings are owed no, or at least no *positive*, ethical duties. The descriptive premise maintains that the vast majority of members of future generations cannot enter into dealings of mutual benefit with those who belong to existing generations. Suppose that we accept the normative premise (and it is worth reminding ourselves that many, including those who subscribe to non reciprocity-based theories, do not). It is perhaps surprising that the descriptive

premise has attracted such little critical interest in the past. In fact, almost all the contributors to the literature on intergenerational ethics - with the exception of John O'Neill - have taken it for granted that this premise is obviously true. As I will be attempting to show in this chapter, however, the possibility that people can be harmed after their biological death seems to call into question the veracity of this premise, and in so doing appears to play an important role in a further novel response to the non reciprocity-problem.

Let me explain. If persons can be harmed after they are dead, two implications follow swiftly. First, the actions of present persons can harm their ancestors. Second, existing persons will at some point be vulnerable to harm at the hands of their descendants. But if future persons will be able to harm present persons, there would appear to be potential for some reciprocity here; it is not the case, as Rawls put it, that 'we can do something for posterity but it can do nothing for us.'¹ If the idea of posthumous harms can be defended, then, it appears that we have at least some reason to reject the above descriptive premise and with it the Non-Reciprocity Problem.²

Secondly, suppose that persons can be harmed after their death. An account of whether inflicting a harm on someone is permissible is an important component of any theory of justice. It is frequently asserted, for example, that acts or social policies can be wrong only if they result in at least one person being harmed.³ I hesitate to say

¹ Rawls, *A Theory of Justice*, p.291.

² It might also be claimed that posthumous events can *benefit* people. For simplicity, however, the concerns of the chapter are limited for the most part to the problem of whether the dead can be harmed rather than benefited.

³ The classic source of this view is John Stuart Mill's 'simple principle' of liberty. Mill writes, 'the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others' (Mill, *On Liberty*, London,

that such a theory is *all* there is to a theory of ethics, because a fully developed account of ethics will deal with a number of other issues, including what it is for a person to be wronged, for a person to be benefited, for a person to exercise their rights, and an account of the scope of ethics.

However, to the extent that any account or theory of intergenerational ethics would be inadequate if it relied on an inadequate understanding of harm, the fact that mainstream theories of intergenerational ethics ignore the possibility that the *dead*, as well as the *not yet born*, can be harmed by the actions of existing persons marks a serious omission. Such mainstream theories assume that the only problem of intergenerational ethics worth any attention is the problem of what obligations existing persons have (not to harm, for example) future persons. If the idea of posthumous harm turns out to be coherent, however, the problem of intergenerational ethics would better be described by the problem of what obligations existing persons have to those who *will live* and *have lived* - that is to both past and future persons. This opens up the possibility that duties to past persons might define quite strong constraints on present persons, as we often take duties of well-being to be stronger than duties of respect.

Thirdly, this last point has particular relevance for certain theories of intergenerational ethics which make reference to the debts which present persons owe to past persons in virtue of what the latter have produced for the former. Theories of intergenerational trusteeship are often thought to be quite weak due to the fact that the obligations they

Penguin, 1974, p.68). The principle is adopted, and extended, by Joel Feinberg in his four volume work, *The Moral Limits of the Criminal Law*. See, for example, *Harm to Others*, Oxford, Oxford University Press, 1984, pp.11f. See also John Kleinig, 'Crime and the Concept of Harm', *American Philosophical Quarterly*, 15, 1978, 1978, p.27.

generate are owed *in respect of*, rather than *to*, past persons. The usual view is that the dead themselves are beyond harm of any sort, and that we would not be harming the dead if we renege on our obligations of trusteeship. Rather, we would be harming either ourselves in that we would not be living up to an appropriate ethical ideal, or possibly our descendants by virtue of robbing them of their rightful inheritance. The posthumous harms idea suggests, however, that if we squander the resources which a previous generation has entrusted to us to pass down to our successors, we will not only be harming ourselves in some way, and possibly our descendants, but in addition the people, whether dead or not, that entrusted the resources to us in the first place.

A cursory look at these three issues, I think, demonstrates the ethical significance of the idea of posthumous harms. However, it gets us no further along on the question of whether events after our deaths *can* in principle harm us, or whether certain events after our deaths *do* in fact harm us. Let us focus on the former issue. The idea that the dead can be harmed is contentious. As noted, many contributors to the literature on intergenerational ethics think the idea absurd.⁴ However, it is worth noting that the idea has been treated seriously from time to time - particularly in antiquity. Thus, Aristotle observes that,

the notion that the dead are not affected at all by the fortunes of their descendants or any of those whom they love seems unduly heartless and contrary to accepted beliefs. . . it appears that the dead

⁴ See, for example, Barry, 'Justice Between Generations', p.280; Ernest Partridge, 'Posthumous Interests and Posthumous Respect', *Ethics*, 91, 1981, pp.243ff; Goodin, *Protecting the Vulnerable*, p.179; Rawls, *A Theory of Justice*, pp.290-1.

are affected to some extent by the good fortunes of whom they love,
and similarly by their misfortunes.⁵

Let us concentrate solely on the connection between the idea of posthumous harm and the intergenerational extension of reciprocity-based theories of ethics, a connection which seems to have been almost entirely neglected.⁶ In this chapter, I will be investigating the way in which the notion of posthumous harms seems to provide a third line of defence for a reciprocity-based theory of intergenerational ethics over and above those defined by the Chain of Concern and Trusteeship models discussed earlier.

In the next section, I outline a positive theory of how persons might be harmed even after they have ceased to exist. In section 3, I show how the existence of these posthumous harms might rescue certain reciprocity-based accounts of intergenerational distributive ethics from considerations of non-reciprocity. In section 4, I consider several arguments which might be raised against the view that a person's well-being is vulnerable to events which take place after their biological death, and maintain that each of these arguments is flawed. In section 5, I go on to show that the existence of posthumous harms is consistent with two pre-eminent theories of well-being, and a hybrid version of these theories. Finally, in section 6, I outline some of

⁵ See Aristotle, *Ethics*, Bk. 1, Ch.10, 1101a-b. See also Feinberg, *Harm to Others*, pp.79-93; George Pitcher, 'The Misfortunes of the Dead', *American Philosophical Quarterly*, 21, 1984, pp.183f; Dorothy Grover, 'Posthumous Harm', *The Philosophical Quarterly*, 39, 1987, pp.350ff; John Callahan, 'On Harming the Dead', *Ethics*, 97, pp.341ff; Barbara Levenbrook, 'Harming Someone After his Death', *Ethics*, 94, 1984, pp.407ff.

⁶ John O'Neill appears to be the only writer to have noted the connection, and even he does not envisage using the idea of posthumous harms to defend the intergenerational extension of reciprocity-based theories of *ethics*, but instead against non-objectivist theories of *well-being*. See John O'Neill, 'Future Generations: Present Harms', *Philosophy*, 1993, pp.36-43; and O'Neill, *Ecology, Politics and Policy*, London, Routledge, 1995, pp.28-38.

the limitations of attempts to rescue intergenerational applications of reciprocity-based ethics by virtue of an appeal to the existence of posthumous harms.

2. A Theory of Posthumous Harms

Recall that the main reason why writers such as Rawls and Barry regard the notion of posthumous harm with suspicion is that they think that it presupposes that events which occur at earlier moments in time can be brought about, or caused, by events (or actions) that take place (or are performed) at later moments in time. That is, such writers think that the notion of posthumous harm presupposes the presence of *backwards causation*. In this section, I will argue that there is a clear flaw in such reasoning. This is that the presence of backwards causation is unnecessary for posthumous harm to occur, and that this follows from the fact that it is unnecessary for an act or social policy to affect a person's well-being that this act or social policy cause, or bring about, any change in this person's physical being or that the effects of this act or social policy be experienced by this person.⁷

For the purposes of illustration, consider

The Case of Smith. *Smith* is a conscientious fellow; an émigré who cherishes his unblemished reputation amongst his present and former compatriots. Without Smith's knowledge, an old acquaintance, *Jones*, spreads damaging rumours about Smith

⁷ It has been suggested to me that some events which occur after one's death might harm one in a way which does not reduce one's well-being. However, I put this possibility to one side in order to concentrate on the question of whether a person's well-being is vulnerable to events that take place after their death. I do this partly for reasons of economy, partly because this is a simpler idea to grasp, and partly because it is the understanding of posthumous harms to which the bulk of the literature on this issue is addressed.

throughout the populace of his former homeland. As a result, Smith becomes the object of much unfavourable gossip and general mockery there. As it happens, there are sufficiently few links between Smith's old homeland and his new one that the effects of this treachery (i.e. Smith's reputation being ruined) at no stage impinge upon Smith's conscious experience.⁸

Cases of this sort appeal to our intuitions about what we, as persons, would prefer not to happen to us, and it seems that one of these things would be not to be talked about unfavourably, even if there is so much distance between us and this unfavourable gossiping that we never come to experience any of its harmful effects. We think that Smith's well-being has been adversely affected by Jones' actions despite the fact that these actions do not bring about any noticeable unpleasantness, such as Smith being ridiculed in public, or being the victim of threats or abuse, or being disadvantaged in terms of social or employment opportunities and so forth. The example, then, turns on our conviction that Smith's life has gone worse (his well-being has been diminished) as a result of Jones' deeds, despite no aspect of this loss impinging on Smith's life.

Next consider a different example.

The Case of Jones (& Smith Junior). Several years have passed and Smith has since died. Smith's son, *Smith Junior*, however, decides to travel to his father's homeland to capture the flavour of his roots. He is appalled to discover that Jones had succeeded in

⁸ A similar case is discussed by Thomas Nagel, 'Death', in his *Mortal Questions*, Cambridge, Cambridge University Press, 1979, p.4; and Feinberg, *Harm to Others*, p.87.

destroying his father's reputation amongst his former compatriots and vows to take revenge. He cannot confront Jones about his behaviour, however, because he has also recently died. Nevertheless, the bitter *Smith Junior* not only succeeds in demonstrating the nature of Jones' outrageous lies, but also, in order to take revenge, manages to persuade everyone that Jones himself performed a number of despicable acts during his life-time that no one was previously aware of. These acts, however, were figments of *Smith Junior's* vengeful imagination.

The account of posthumous harms I propose is that Jones' well-being is vulnerable to *Smith Junior's* actions in the same way as Smith's well-being was vulnerable to the earlier actions of Jones. Here, both Smith's and Jones' well-being have been diminished despite the fact that, at the time of these well-being diminishing actions' performance, the physical properties of neither Smith nor Jones were altered. The idea is that just as we should not be misled into thinking that the harming of Smith in the first case requires 'instantaneous causation at a distance',⁹ we should not be misled into thinking that the harming of Jones in the second case required the presence of backwards causation. I propose, then, that posthumous harms are acts which diminish a person's well-being after their biological death in a *non-causal* fashion; and that on any plausible account of well-being, they are a rather common phenomenon.

⁹ Pitcher's phrase - see 'The Misfortunes of the Dead', p.186; and Grover, 'Posthumous Harm', pp.335ff.

3. Posthumous Harm and the Non-Reciprocity Problem

Recall that the Non-Reciprocity Problem attracts proponents of reciprocity-based theories of distribution into subscribing to four, mutually inconsistent, beliefs:

- (1) performing acts, or adopting social policies, which threaten the well-being of members of future generations is wrong because it will violate certain requirements of distributive ethics.
- (2) requirements of distributive ethics are owed only to those who can *reciprocate* with those who are bound by those requirements.
- (3) reciprocity exists only between those persons who can interact with each other through some, direct, causal pathway.
- (4) the vast majority of future persons will never be in a position to engage in activities which will have a direct, causal, impact on members of previous generations.

Suppose that the account of posthumous harms outlined in the previous section could be defended. It would seem that, despite the absurdity of backwards causation, at least some members of later generations would have the capacity to influence, *non-causally*, (1) the posthumous reputations of certain persons who belong to earlier generations, as well as (2) the success of certain projects, plans and goals which members of earlier generations adopted and which are vulnerable to success or failure after their deaths. This would appear to open up the possibility that, counter to the descriptive premise mentioned earlier, and which appears in the guise of belief (4) above, there is some degree of *direct* reciprocity binding persons whose lives at no

stage overlap. In effect, the room for this new type of, *non-casual*, intergenerational reciprocity is created by the revising of belief (3) above to read 'reciprocity exists only between those persons who can interact with each other through some *casual* or *non-causal* pathway.' Quite apart from revising belief (3) in line with the notion of *indirect reciprocity*, then, the existence of posthumous harms has given us a second reason to abandon belief 4 in line with the notion of *non-causal reciprocity*.

The reciprocity created by this revision, of course, does not mirror in every respect the paradigmatic dealings of mutual benefit between members of the same generation, for the participants here, lacking any contemporaneity, cannot enter into *face to face* dealings with each other. However, a certain sort of reciprocity exists nevertheless, and has at least two important implications for theorising about intergenerational ethics. Firstly, it suggests that we ought to abandon the *Asymmetry View* (according to which intertemporal dealings are unidirectional), in favour of what I will call the *Symmetry View*. According to the Symmetry View, intergenerational dealings are bi-directional in the sense that present persons can harm or benefit their descendants, while future persons can harm or benefit their ancestors. Secondly, because it involves the abandonment of the Asymmetry View, the appeal to non-causal reciprocity (like the appeal to indirect reciprocity) appears to solve the Non-Reciprocity Problem.¹⁰

¹⁰ If, as seems to be the case, the two suggested revisions turn out to be both plausible and compatible, the revised belief (3) would become

(3'') reciprocity exists only between those persons who can interact with each other either through some direct or indirect pathway, or through some casual or non-causal pathway.

Consider theories of Self-Interested Reciprocity. I argued earlier that such theories were unlikely to generate obligations of distributive ethics to persons beyond those who belong to all but the most proximate of future generations. However, if the Symmetry View could be defended, there would exist self-interested considerations in favour of existing persons thinking twice before they hand down to future generations a less than equitable natural, cultural, or socio-economic environment. If members of present generations act responsibly as far as the preservation of the environment bequeathed to future persons is concerned, for example, then future persons will be in a position to judge present persons favourably as far as their posthumous reputations are concerned, as well as being generally disposed to reciprocate these earlier benign actions by carrying on the posthumously surviving projects and goals of persons belonging to earlier generations (or at least those persons or groups which behaved benignly).

A perhaps more puzzling problem associated with using the existence of posthumous harms in order to bolster the intergenerational application of Reciprocity as Self-Interest has more to do with the lack of rational motivation of *future persons* to reciprocate for the benign actions of *present persons* than with the motivations of present persons to do the right thing by future persons. Thus, because these views do not appeal to any inherent idea of fairness, even if present persons conserve in order that (1) future persons will treat their posthumous reputations well or (2) that future persons will continue, rather than terminate, the posthumously surviving desires of present persons, then (3) the rational move for future persons when they come into existence will still be to defect on the 'good faith' of their ancestors wherever this will

be to their advantage to do so. Nevertheless the existence of posthumous harms would seem to bring these views more in line with many peoples' convictions about the existence of duties of intergenerational ethics.

The Symmetry View also has certain, albeit complex, implications for the intergenerational extension of indirect conceptions of reciprocity, such as the Trusteeship and Chain of Concern models. Take the former. This model would appear to be strengthened by the Symmetry View for, here, we do not merely have duties to the dead simply out of respect for the interests they had when they were alive, the recognition of which smoothes the way for practices, such as inheritance, that are useful for present day society. Rather, this arises because the dead have interests which can be invaded, and thus ought to be respected, quite independently of the social utility of doing so; and some of these interests concern the manner in which the benefits which they handed down to existing people should be disposed of. The third-party obligations of reciprocity imposed on us by our receipt of benefits produced in the past certainly do not stand or fall with the veracity of the posthumous harms idea, but they are certainly compatible with, and possibly strengthened by, it.

4. Objections To The Idea of Posthumous Harms

There are a number of objections which might be raised against the claim that a person's well-being can, even in principle, be diminished by events which take place after their death. The most prominent of these are grounded in certain requirements which delimit the scope of events which can impact upon how well a person's life is

going. In sections 4.1 through 4.3, I consider some of these requirements and suggest that they are all problematic.

4.1 The Experience Requirement

According to the *Experience Requirement* (ER), an event cannot be bad for a person if this event has no tangible effect on (that is makes a difference to) their conscious experience.¹¹ The ER might be distinguished from the *Narrow Experience Requirement* (NER) which states that an event cannot be bad if a person does not experience it as bad.¹² Though these requirements are similar, they are not identical. Recall the cases of Smith and Jones. Suppose that, contrary to my initial stipulation, Smith did suffer in some tangible way from Jones' malicious actions, although he was not consciously aware of this (perhaps he was the victim of 'inexplicable stares, by job opportunities refused, by invitations not received, etc.').¹³ In such a case, the narrow (NER) version of the requirement would imply that this turn of events was not bad for Smith. The wider (ER) version of the requirement would, on the other hand, view the events as harmful to Smith. Despite being unaware of the deceit himself, Smith's conscious-states would undoubtedly be other than those which he would entertain if he was not the victim of these cold stares and lost job opportunities.

Turning to the original version of this case, however, it seems that accepting either of these requirements would appear to leave no room at all from which to say that Jones harmed any of Smith's interests by his actions, for in this case there are no tangible

¹¹ The term appears to have been introduced by James Griffin. See Griffin, *Well-Being*, Oxford, Oxford University Press, 1986, p.13; pp.16-17.

¹² See Jefferson McMahan, 'Death and the value of life', *Ethics*, 99, 1988, p.33.

¹³ Partridge's phrase - see Partridge, 'Posthumous Interests, Posthumous Respect', p.251.

effects of Jones' actions on Smith whatsoever. Each of these requirements implies that Smith has an interest only in avoiding the bad effects of a bad reputation - either solely in terms of the unpleasant conscious states or experiences it causes him (NER) or, in addition, other events which impact upon his conscious experience, such as economic injury and so on (ER). In pure cases of unexperienced harm such as this, then, both the ER and NER deny that a person's well-being, whether they presently exist or not, can be affected by actions and events which have no affect on their conscious states.

Let us focus our energies on the, more plausible, ER. What sort of account of well-being would endorse such a requirement? The answer must be, I think, only a *hedonistic* theory of well-being. Hedonism holds that a person's well-being, or self-interest, consists in the presence of pleasurable conscious states. Hedonism, because it appeals to the ER, is irreconcilable with the view that a person's well-being can be adversely affected by acts or events which have no impact on their conscious states. If Hedonism turns out to be the only, or the most, plausible theory of well-being then there can be no such thing as well-being connected harms which are *not* experienced.

There are, however, significant objections to Hedonism which arise from the claim that theories of well-being which endorse the ER pre-suppose an implausibly narrow understanding of well-being. Thus, Hedonism cannot explain the view of many people that there are some things which improve their well-being even if they experience these things as painful (or indeed they do not experience them at all); and

there are other things which reduce their well-being even if they are experienced as pleasurable (or indeed they are not experienced at all).¹⁴

Consider, for example, Nozick's example of the 'experience machine.' Nozick supposes that a machine has been invented which can simulate any experience by stimulating parts of the brain. If attached to this machine, he argues, 'superduper neuropsychologists could stimulate your brain so that you would think and feel you were writing a great novel, or making a friend, or reading an interesting book'; and, furthermore, these experiences would be indistinguishable from their 'real-world' counter-parts.¹⁵ Nozick points out that, despite the fact that those attached to the experience machine would experience pleasurable sensations, we would not normally think that the lives of these people are going well. For example, being plugged into the machine would result in the loss of contact with other people and the outside world in general, and we think that entering into meaningful relationships with others is at the very least a *necessary* condition of leading a life which is worth living.

It seems then that theories of well-being which endorse the ER are too narrow; things other than pleasant conscious states matter from the point of view of human well-being. As a result, the fact that endorsing the ER would necessarily rule out the idea that a person's well-being is vulnerable to posthumous events ought not lead us to abandon this idea, or the symmetrical view of intergenerational dealings it lends credence to.

¹⁴ See, for example, Griffin, *Wellbeing*, p.8; Parfit, *Reasons and Persons*, pp.493-4; Larry Temkin, 'Harmful Goods, Harmless Bads', in R.G. Frey and C. Morris, eds., *Value, Welfare, and Morality*, Cambridge, Cambridge University Press, 1992, pp.298ff.

¹⁵ Nozick, *Anarchy, State, and Utopia*, p.42.

4.2 The Existence Requirement

In this section, I want to suggest that there is a way of defending the thought that it is possible to harm an *existing* person's well-being even if they do not experience this, but not to harm a *dead* person's well-being. This is to endorse an *existence*, as opposed to an *experience*, requirement.¹⁶ *The Existence Requirement* (EXR) states that a person's well-being cannot be harmed, or diminished, unless he exists at the time this harm is inflicted.¹⁷ To say that persons who do not currently exist cannot be harmed, of course, is not necessarily to say that non-existent persons cannot be harmed *because they cannot experience* any alleged harms that befall them. Thus the implications of the EXR, when incorporated into a wider theory of well-being, might depart from Hedonism quite markedly.

Recall the earlier case of the Smith. The EXR diverges from the ER in its implication for this case. Despite the fact that Smith is unaware of Jones' actions, and that no bad effects of these actions impact upon Smith's conscious experience, the EXR, taken on its own, is compatible with the claim that Smith's well-being is diminished by Jones' acts. This is because Smith exists at the time of his reputation being ruined by Jones. The EXR, then, appears to be a less narrow restriction on the limits of well-being than either experience requirement.

The EXR will also have important implications in other cases involving *prima facie* posthumous harms (such as the case of *Jones*). Consider the following example:

¹⁶ See MacMahan, 'Death and the Value of Life', pp.38-40.

¹⁷ The harmed person must exist at the time of *infliction* rather than *cause* of said harm in order not to rule out uncontroversial cases of harm which proceeded from negligent acts and so forth before one was born (as in the case where I deliberately plant a bomb which goes off some months later in a maternity ward).

The Case of Mulder. Fox Mulder's life's work as an FBI agent attached to the X Files unexpectedly collapses when a freak fire in his office building destroys all of his case notes and computer files. However, because he is killed by an assailant while working on a routine murder case just *after* the collapse occurs, he never finds out about this.

According to the EXR, it is perfectly plausible to argue that Mulder is harmed by the collapse of his work on the 'X Files', and to claim that, if the collapse had not occurred when it did, his life might have gone better than it did. Obviously, to get to this conclusion several premises pertaining to what we take a person's well-being to consist in must be added here. However, unlike the ER, the EXR is at least compatible with providing such an account. The problem with the EXR arises when we add further examples, such as:

The Case of Scully. Dana Scully's life's work as an FBI investigator on the X Files unexpectedly collapses (in the same circumstances as Mulder's) while she is on holiday in the Bahamas. However, because she is killed on a scuba diving excursion a few minutes *before* the collapse occurs, she never finds out about it.¹⁸

The problem with the EXR, here, is that whereas it appears to provide a sound answer to the question of whether Mulder could be said to be harmed by this unknown collapse given that it occurred some minutes *before* his untimely death (i.e., yes), it implies that Scully is *not* harmed given that the collapse of her work occurred some

¹⁸ A similar example is discussed by McMahan, 'Death and the Value of Life', p.38.

few minutes *after* her death. Herein lies the 'logical wedge' which holding the EXR allows us to drive between cases of *posthumous* non-causal harm on the one side and *non-posthumous* non-causal harm on the other. However, the price of using this wedge is that we must hold that, regarding the Mulder and Scully cases, as far as the harming is concerned 'the timing makes all the difference.'¹⁹ But this seems hard to believe.

One way in which we might explain the problem that the EXR poses in the Scully (and Jones) cases is that it encourages us to subscribe to three mutually incompatible beliefs:

(1) had Scully's life's work not collapsed as it did, she would have been better off - her life would have gone better.

(2) to say that a person's life went worse because of an event, this event must have taken place while the person is alive.

(3) the collapse of Scully's life's work did not take place while she was alive.

The account of the Scully case which I have been urging assumes that (1) and (3) are so evidently true that (2) must be false. The account of the Scully case which the EXR urges, however, is that (2) and (3) are true, and therefore (1) must be rejected. Part of the intuitive case for my account is that the EXR seems to be an ugly sister of the ER, mentioned earlier. The ER at least had a sort of brutal logic about it (it represented the logical conclusion of holding a view of well-being which ties people's well-being exclusively to the pleasurable conscious states they possess). But the EXR seems not

¹⁹ McMahan, 'Death and the Value of Life', p.38.

even to have this - it does not seem to represent any coherent account of well-being. Thus, whereas it departs from the implications of Hedonism in Smith type cases, it departs from non-hedonist theories of well-being in Jones type cases. The EXR, then, appears to be a restricting principle on well-being without a wider theory which can incorporate it.

A recent article by Shelly Kagan, however, suggests that the EXR captures something of a view that might well be more plausible than either experience requirement, and possibly suggests that we ought to reject (1). The suggestion is that the EXR would be a special instance of, or an approximation to, what I call the *Intrinsic Properties Requirement (IPR)*.

4.3 The Intrinsic Properties Requirement

Kagan proposes that there are three conditions that any plausible theory of well-being must meet: these are the *content*, *value*, and *benefit* conditions. The content condition states that the facts specified by the theory to be relevant to a person's well-being must be facts *about* that person. The value condition states that a plausible account must be offered of *why* it is good that these facts obtain. The benefit condition states that these facts must be good in some respect *for* the person who is well-off: as Kagan writes, the 'well-off individual must benefit from being well-off' in a way that involves the state of their *intrinsic properties*.²⁰

²⁰ Shelly Kagan, 'The Limits of Well-Being', *Social Philosophy and Policy*, 9, 1992, p.185. A person's intrinsic properties, here, refer to properties of their brain and/or body. They include their conscious-states, talents, handicaps and so on. A person's extrinsic states, by contrast, are those properties of a person which arise as a consequence of relations to other people and objects, such as the way in which their physical and mental powers compare to those of others.

It is the third condition which gives rise to what I call the *Intrinsic Properties Requirement* (IPR) The IPR might be stated as follows:

For an act or event to be bad for a person's well-being, it must affect him, that is make a difference to him, in a way that alters his intrinsic properties.

The relevance of the IPR for the issue of posthumous harms is relatively straightforward. In none of these alleged cases of posthumous harm will this requirement be satisfied. Consider, for example, the case of Scully. Kagan would maintain that the fact that it is her life's work which collapses, that she spent a great deal of time on it, and it is indeed generally harmful to a person if their important projects go badly, means that the first of the above two conditions will be met. However, because the collapse did not plausibly effect a change in Scully's body and/or mind (and all there was to Scully as a person was her body and mind) the benefit condition, and thus the IPR, is not satisfied in this case. The result, according to Kagan's view, is that it cannot be claimed that Scully's well-being suffered as a result of her work's destruction.

In fact, the IPR will not be satisfied in the case of the Mulder, Smith or Jones cases - or in any other *prima facie* case of posthumous, or non-posthumous, non-causal harm we care to mention. For, in these cases, while the relevant entities might have had their *extrinsic* properties affected by the events discussed, their *intrinsic* properties will not have been affected.

Note that the axiom is not identical with any of the requirements I have mentioned so far. It will, or might, conflict with either experience requirement in certain cases

where a person goes through some beneficial or harmful bodily change without a corresponding experiential change. On the other hand, although it implies the EXR as an incomplete approximation (a change in a person's brain or body cannot occur unless they exist) it is not interchangeable with it (one might, like Smith, not be affected in body or mind by a harming act, but the EXR would be consistent with this person's well-being having been diminished, whereas the axiom would not be).

Now it is important to point out that Kagan offers no positive argument for the axiom other than observing that it seems 'overwhelmingly plausible.'²¹ I do not agree, however, as it leaves Kagan juggling with roughly the same three inconsistent beliefs in Scully-type cases as those who endorse the EXR, namely:

(1) for a person's well-being to be affected by an act or event, it must trigger some intrinsic change in them (The IPR).

(2) had Scully's life's work not collapsed as it did, she would have been better off, her life would have gone better.

(3) the failure of her life's work does not affect Scully intrinsically.

Faced with these incompatible beliefs, Kagan holds that (2) is false. Cases such as this, he argues, merely 'appear to be cases where well-being is affected, but they must not be, for they cannot be.'²²

Although I think that Kagan's suggestion should be rejected, Kagan's discussion does at the very least pave the way for a more felicitous taxonomy with which to approach the issues of well-being and unexperienced harms. Let me explain. The IPR calls into

²¹ Kagan, 'The Limits of Well-Being', p.186.

²² Kagan, 'The Limits of Well-Being', p.187.

question the traditional tripartite classification of theories of well-being into hedonist, desire-based, and objectivist accounts. The axiom does not stand or fall, for example, with hedonistic accounts (well-being here is tied to changes in appropriate intrinsic states of mind or body) and it is left in the air whether changes in the body will always be matched by changes in conscious states.

Consider, for illustration,

The Case of Evans. Through the negligence of a colleague at work, Evans becomes infected with a rare disease. The disease is completely undetectable, and has a very long incubation period. However, having this disease means that on or around Evans' sixtieth birthday he will succumb to it and die soon after. As it turns out, however, Evans dies a few months before his sixtieth birthday in a car accident, apparently suffering from no symptoms of the disease, and completely that he ever had the disease.

The IPR suggests, I think correctly, that contracting the disease in these circumstances could constitute a harm to him despite it never altering for the worse any of his conscious states. This is because it affected adversely many of his bodily states.²³

On the other hand, when we consider the cases of Mulder and Evans side by side, it becomes clear that theories of well-being which endorse the IPR will be led to make a distinction between these cases which no other theory would draw. This is that Evans

²³ Perhaps, as in the case of Creutzfeldt-Jakob Disease (CJD), the progressive replication of infected protein molecules gradually turned his brain to mush, but it never reached the critical stage that the degeneration impacted upon his conscious life.

is harmed by his ailment, but Mulder is not harmed by the collapse of his life's-work, despite the fact that neither Evans' illness nor the collapse of Mulder's work is experienced, and despite the fact that both are alive at the time of the putative well-being diminishing events.

This, I think, suggests that any theory which endorses the IPR will be a new type of theory, not presentable in terms of the traditional tripartite distinction between hedonistic, desire based, and objectivist theories - or at least not as they have been traditionally conceived.²⁴ But it will be a theory that purchases its novelty at the price of being cut off from the motivation of theories which endorse an experience requirement on personal good - a requirement which entails that what one does not experience cannot harm one.

In fact, Kagan thinks that the main upshot of finding the axiom plausible is that we also find plausible the thought that theories of well-being should be seen in terms of *two separate sets of distinctions*, as opposed to separating them into the three camps noted above. The distinctions he proposes are (1) whether the theory is *objective* as opposed to *subjective*; and (2) whether the theory restricts well-being to facts about *intrinsic* properties of the person, or allows in addition facts about *extrinsic*, properties of the person to count as well.²⁵

²⁴ Such a theory is not discussed by proponents of the classification, such as Parfit and Temkin. See Parfit, *Reasons and Persons*, pp.493f; and Temkin, 'Harmful Goods, Harmless Bads', pp.297ff. Neither it is proposed by Griffin, but Griffin's view is complicated by the fact that he adds a fourth theory to the classification which he calls 'perfectionism.' However, to the extent that perfectionism, here, is more or less a development of objectivism, Griffin is a third example of a philosopher which takes this tri-partite classification seriously. See Griffin, *Well-Being*, Part One.

²⁵ Taking a person to consist of simply a body and a mind, a changes in a person's intrinsic properties simply require corresponding changes in a person's body and/or mind. Changes in a person's extrinsic properties, on the other hand, require changes not in a person's body

These distinctions in turn yield a four-fold classification of theories of well-being, which I tentatively surmise would pan out as Hedonism and desire fulfilment on the *subjectivist* side, and objective list theory and a new theory which we might call 'restricted objectivism' on the *objectivist* side.²⁶ The way these positions relate to each other is explored in Figure 4 (on the next page).

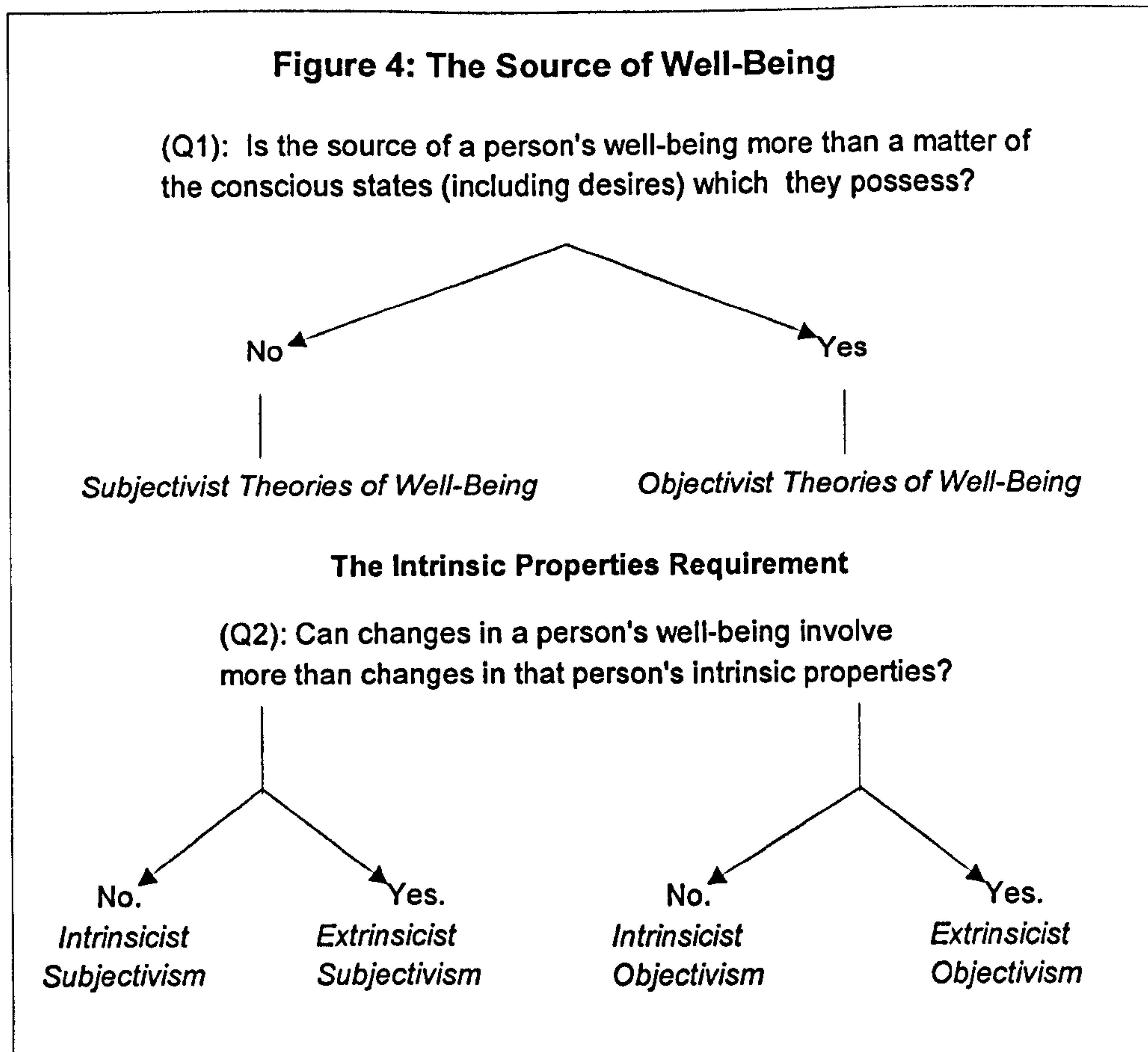
The point I want to make here is that, even if we regard the IPR as implausible as a limiting principle on well-being, we might hold that Kagan has provided a very useful taxonomy for the purposes of thinking about well-being. It shows us, in particular, that a plausible account of posthumous harms must reject *intrinsicism*, as we might call it, rather than subjectivism as such as some (such as O'Neill) have argued.²⁷ Intrinsicism is the view that a person's well-being is not vulnerable to events which do not involve changes in their intrinsic properties.

It seems safe to say, then, that no intrinsicist view of well-being will have room for the view that people can be harmed posthumously, for death certainly renders its victim's intrinsic properties beyond the reach of posthumous events. So if we are to retain the thought that people can be harmed after their death, we must endorse an extrinsicist view of well-being. In the following two sections I discuss two such theories, and argue that they are both consistent with the notion of posthumous harm.

and/or mind but in a person's relational properties. See Kagan, 'The Limits of Well-Being', pp.188-9.

²⁶ Restricted in the sense that only goods whose possession impacted on a person's intrinsic properties could be objectively valuable to persons.

²⁷ O'Neill, *Ecology, Politics and Policy*, pp.36-8.



5. Two Theories of Well-Being

Let us suppose that I have created enough doubt about plausibility of the Experience, Existence, and Intrinsic Properties Requirements that the reader is at least *not* convinced of the non-existence of posthumous harms. In the next two sections I turn to a deeper examination of two theories of well-being which, despite taking a quite different view of what the well-being of persons consists in, *are* reconcilable with the existence of posthumous harms. These are the *Subjective Desire Fulfilment Theory* and the (extrinsicist) *Objectivist Theory*.

5.1 The Subjective Desire Fulfilment Theory

According to the *Subjective Desire-Fulfilment Theory* (SDFT), a person's well-being consists in having their desires fulfilled. The theory which Parfit calls the *Success Theory* is a good example of this type theory. The Success Theory simply states that which is best for a person's well-being is what would best fulfil those, and only those, desires which he has about his own life, with the condition that these desires must mark out a central, or main, aim of his.²⁸ This might be contrasted with a less plausible version of the SDFT which Parfit calls the *Unrestricted Theory*. This theory holds that what is best for a person's well-being is that *all* of his desires are fulfilled, even if they are not about his own life.²⁹ The SDFT in either its restricted or unrestricted incarnations is most plausible when it counts only *informed* desires, that is desires which would be entertained in full knowledge of the alternatives.

The main contrast between the SDFT and Hedonism is that the SDFT is consistent with the thought that certain things can affect a person's well-being without entering their conscious experience. It is true that, according to the SDFT, desires are sorts of mental-states. However, it is also the case that this view is consistent with the thought that there will be cases where the fulfilment of an informed desire will *fail* to bring about pleasurable experiences in that desire's owner. In such cases, one might be unaware that one's desire has been fulfilled, or one is aware that it has been fulfilled

²⁸ See Parfit, *Reasons and Persons*, pp.494ff; Griffin, *Well-Being*, p. 21.

²⁹ In fact, the Unrestricted Theory is subject to some serious objections. Take Parfit's example of the disease-stricken stranger whom we meet and feel an instant liking for. When we part company with the stranger we wish him well, and in particular we entertain a strong wish that he could be cured. Should SDFT include such desires? It seems that it should not, for if it did proponents of SDFT would have to accept that if long after we have met him the stranger is miraculously cured then this will impact favourably upon *our* own well-being (see Parfit, *Reasons and Persons*, p.484).

but this brings no satisfaction, as in the case of fulfilled, but ill-considered, wants or when *counter-adaptive* preference formation is at work.³⁰ Finally, there seem to be cases where the experience of a desire being fulfilled is enjoyed by a person in the absence of this desire's actual fulfilment - as when one is deluded into thinking, falsely, that one's desire to write a good academic paper has been fulfilled (perhaps as a result of being patronised by colleagues or of the taking of mind altering drugs).

In the following, I will use a discussion of several examples in order to show that (1) the most obvious interpretation of the SDFT would involve the inclusion of posthumous desires in calculations of certain people's well-being, and (2) that the desires which the SDFT will count in this respect will extend to some self-regarding and some other-regarding desires (as well as difficult cases which appear to be an amalgam of both).³¹ Consider first,

The Case of Brown. Brown has a strong, and persistent, desire that his children lead a flourishing life. Indeed, Brown would prefer the state of affairs where his children flourish despite his lack of awareness of this to the state of affairs where he is pleasantly deluded into thinking that they are flourishing when they are not.

³⁰ Counter-adaptive preference formation arises when a person has a desire which, while blocked, is strongly identified with by its owner, but when fulfilled it brings little satisfaction because its owner has taken on board a new desire in its place. Elster gives the example of someone who lives in London and wishes to live in Paris in the knowledge that if he moved to Paris he would almost certainly cultivate a desire that he lived in London. See Jon Elster, *Sour Grapes*, Cambridge, Cambridge University Press, 1983, p.111.

³¹ Here I take 'other-regarding desires' to be those desires which people are primarily concerned with the bringing about of states of the world which are not primarily concerned with themselves. Examples might be the desire that a certain political party, or cause, succeed. By contrast, I take 'self-regarding desires' to be those desires which are concerned primarily with states of the world which they themselves participate in. Examples might be the desire to be a certain sort of person, or that one be respected by others.

However, some time after his death it transpires that his children do not flourish, and moreover many of Brown's own attempts to secure their flourishing have been shown to have failed.

The first thing to say, here, is that such cases illustrate that a person's desires are best explained as being fulfilled by objectively observable *states of the world* rather than by subjectively discernible *states of their minds*. Feinberg remarks that, 'the object of our efforts is to fulfil our desires in the external world, not to bring about states of our own minds. . . . If the objects of our desires were valuable to us as a means to our pleasant inner states, those inner glows would never come.'³² According to this account of well-being, a person will be harmed only when the fulfilment of their desires is blocked in some way, not when they fail to experience the pleasant feelings generally triggered by this fulfilment when it occurs.

The second thing to say about the example is that Brown's desire is other-regarding, or *vicarious*. That is, it picks out a state of the world which Brown wants to bring about which does not concern himself, or his own intrinsic properties. It seems that other-regarding desires are particularly good candidates for posthumous survival because of this very feature. The problem is that desire-based theories, such as the SDFT, are typically wary of including other-regarding desires within their account of human well-being. Of course, it is sometimes pointed out that desires such as Brown's are *not* fully vicarious, or other-regarding, because parents want not just their children to be well fed, well educated and well resourced in general, but that

³² Feinberg, *Harm to Others*, p.85; see also Griffin, *Well-Being*, p.13.

they want this to be brought about by themselves. This will in fact be true of many desires. Feinberg remarks that

most of our interests require not simply that some result be brought about, but rather that it be brought about *by us*. . . My interest in producing an excellent book, or a beautiful art object, is not fully satisfied by another person's creation of such objects. My interest was not simply that such objects exist, but that *I* bring them into existence.³³

To the extent that this is true of Brown's desire, it would be an unlikely candidate for posthumous survival. However, to the extent that Brown entertains a desire that his children are well fed and educated and so forth which does *not* specify that he himself has to bring this about (which I imagine is a well rooted interest for most people) this desire would, on the above account, survive his death.

Suppose that desires, such as Brown's, are legitimately included in judgements of people's well-being while they are still alive. Could it be a relevant fact in the fulfilment of this other-regarding desire that Brown perishes before it is frustrated? It seems not. It is the fact that desires such as these, and the plans which they ground, are entertained by many people in reality which provides some of the best evidence for the existence of posthumous harms. Many people appear to act as if what happens after their deaths can affect the value which their lives have for them, for example by investing in projects and causes which will, in many cases, not come to fruition in their own life-times.

³³ Feinberg, *Harm to Others*, p.81.

It has already been seen that the SDFT will regard it as bad for me if certain desires that I entertain are not fulfilled despite me being unaware of this. But in this case, on what grounds can proponents of the SDFT rule out Brown's unfulfilled desire, for example, from impacting on their evaluations of how his life went? All that Brown's death seems to do here is to ensure that he will never know or experience that his desire had been frustrated. But, if in more apparently mundane cases, the proponent of the SDFT thinks it irrelevant that an owner of a frustrated desire never discovers the truth of this frustration, surely the proponent of the SDFT will not be drawn to the claim that Brown's death makes a difference to the fact that his well-being had been adversely affected here?

Next consider

The Case of Swampy. Swampy is a committed road protester and wildlife lover who entertains a lifetime wish that the marshland surrounding the Salisbury area be preserved, and as a result expends much effort during his life-time in an attempt to secure the fulfilment of this desire. Shortly after Swampy's death, however, the developers finally move in and within a short space of time, the marshlands are replaced with the new Salisbury bypass.

If we reject a Hedonistic view of well-being in favour of the SDFT, we might think that the marshlands being lost even after Swampy's death could diminish Swampy's well-being. This is because one of Swampy's strongest, global,³⁴ and informed, desires was frustrated; one aspect of his life's work had been thwarted. According to

³⁴ A person's global desires are those deepest desires which relate to their life as a whole, and which are not entertained for a short space of time.

the SDFT, Swampy's life went worse than could have been the case, for, as Hare observes, 'to frustrate a desire is against my interest even if I do not know that it is being frustrated, or if I am dead.'³⁵

Consider, lastly,

The Case of Leonardo. Leonardo spends some considerable time in an earlier century thinking about how people might be able to build machines in order that they can take to the skies. In particular, he produces many designs and drawings of a design of aircraft which looks strikingly similar to the modern helicopter. Leonardo's attempts, though, are consistently frustrated. However, some centuries after his death completely different lines of thought lead to the development of modern aircraft.

Has the ingenuity of later generations in building such aircraft, and taking to the skies as he imagined, fulfilled Leonardo's earlier desire (in which case it is an example of a posthumous interest being furthered) or did this desire go with Leonardo to the grave? It seems the latter is the case, for at least two reasons. Firstly, Leonardo's drawings and designs played almost no part whatsoever in the development of the modern helicopter. In fact, Leonardo's suggestions proved a complete failure in this respect. If a person's acts do not contribute to a desire they entertain being fulfilled, then this seems to weaken the claim that its fulfilment impacts on their well-being. Second, there is no evidence that Leonardo wished such aircraft to be built by *future generations*; in other words, there was no vicarious component to his desire. Rather, it

³⁵ R.M. Hare, 'Ethical Theory and Utilitarianism', in H. Lewis, ed., *Contemporary British Philosophy*, London, George Allen and Unwin, 1976, p.130.

was utterly self-regarding - grounded only in a personal fascination in the project. For these two reasons, it seems that Leonardo's desire lacks two of the components necessary for it to be vulnerable to posthumous events.

The brief discussion of these three cases offered above, I think, brings us closer to an understanding of the conditions which the SDFT will set on a desire surviving posthumously. For example, it must, (1), be at least partly posthumously directed in the sense that states of the world which determine whether it is fulfilled or not must occur, or not, after the person's death. This condition rules in desires such as Jones' desire for a good reputation, which can be respected or ruined after his death. It rules out, however, Leonardo's desire that he himself contribute to the development of air travel within his own lifetime. This desire is *self-contained* in the sense that it does not require the actions of others to assist in its fulfilment.³⁶

The second condition worth mentioning is, (2), that the desire in question must be about the owner in the sense that it picks out a strongly held and identified with global desire, whose fulfilment would in some direct sense benefit its possessor. Suppose that Parfit's attractive stranger is cured, though six months after my death.³⁷ (2) rules out the SDFT counting this preference in its account of how my life went.

It seems then, that if these conditions are defensible, the range of posthumously surviving desires the SDFT will count will actually be quite extensive. And as we have seen, the distinction between those that survive and those that don't will cut across the distinction between self-regarding and other-regarding desires.³⁸ It seemed

³⁶ The distinction between self-contained and self-centred desires, or wants, is discussed by Feinberg, *Harm to Others*, p.86.

³⁷ Parfit, *Reasons and Persons*, p.494.

³⁸ Feinberg, *Harm to Others*, p.86.

at the outset that other-regarding desires, such as Swampy's, might not be vulnerable to posthumous events. However, Swampy's desires appear ironically to be more obvious candidates for posthumous survival than some purely self-regarding desires, such as Leonardo's (and there are obviously going to be some tough cases between these extremes where one's interests, and the desires they are grounded in, are partly self-regarding and partly other-regarding).

To sum up, the attraction of the SDFT as an approach to these issues is that it seems reconcilable with the general idea that certain things (e.g. being slandered or deceived) can impact upon people's well-being even if they do not result in changes in these peoples' bodies and/or minds. Faced with cases such as Smith, then, the SDFT regards these unexperienced events as harming people's well-being because they have a significant bearing on the fulfilment of people's strongest, globally held, desires - regardless of whether the victims are aware of these events. On the other hand, faced with the Jones case, if Jones has an informed, global, desire that members of future generations, such as Jones, do not play fast and loose with his posthumous reputation (or that, as in the Scully case, her life's work flourish regardless of her continued presence at its helm) the SDFT will view distant or later developments which bear on these desires as playing a role in the determination of these peoples' well-being.

One drawback with the SDFT is that, according to this theory, the extent to which a person's well-being is vulnerable to posthumous events is peculiarly dependent on the desires which these people entertained while they were alive. For example, it is consistent with the view that people, such as Brown, who care about the life-plans of

their children may be harmed posthumously by setbacks to their children's success (such as their failed enterprises or premature deaths) - but it is not consistent with people's well-being being harmed posthumously if they never possessed such *posthumously-directed* desires in the first place. Maybe such people are few and far between, but there are at least some people who do not entertain desires which cannot be fulfilled during their own life-times; and, according to the most obvious versions of the SDFT, even if people's well-being can be diminished by posthumous events in principle, the well-being of people who do not entertain future-orientated desires cannot be.

5.2 Objectivist Theories of Well-Being

The concern that the SDFT draws the limits of well-being too widely, as well as the general anti-subjectivist proposition that there isn't a particularly strong connection between the desires or conscious-states a person possesses and their well-being, has lead to pressure to abandon the SDFT in favour of a fully *objectivist* theory of well-being. Objectivists hold that a person's well-being consists in their possessing various objectively valuable goods, for example wisdom, knowledge, courage and so forth, while avoiding objective bads - for example, being deceived, slandered or betrayed. Though the exact list of these objective goods is open to dispute, the point is that the value of these goods is set independently of people desiring them.

This is not to say, however, that coming to identify with these goods is not part of well-being. While the objectivist will be someone who sees, in a range of cases, a huge gap between the lives people wish to lead and those lives which

would be best for them to lead, in order to have a high level of well-being one must not only possess valuable goods or pursue objectively valuable goals, but also find these goods and goals fulfilling.³⁹ The basic point remains that for a person to maintain a high level of well-being, they must meet the demands of a certain, objective, standard. Here, well-being is determined by the possession of certain valuable goods, and a person's life does not go well if they merely falsely believe that they are achieving valuable goals.

Recall the cases of the Smith and Jones, and the claim that people want not to be betrayed because it is *bad* to be betrayed, rather than because of the unpleasantness it brings. This is typical of the sort of claim made by the objectivist. The objectivist thinks that being betrayed is bad for people like Smith neither because it is the source of some unhappiness to him as the Hedonist would have us believe, nor that it frustrates some desire of his, as the SDFT implies. Rather, it is bad for Smith because *the absence of betrayal* is on the list of goods whose possession comprises Smith's (and possibly everyone's) well-being. Reconciling this claim with a subjectivist theory is difficult because this type of theory, as Parfit has put it, is insensitive to *facts about values*. What subjectivist theories are sensitive to are *facts about the desires* which people entertain or the *conscious-states* they possess.⁴⁰

Because many variants of the SDFT are non-evaluative in this way, this theory cannot account for the common view that a good reputation is a conditionally valuable thing to possess - that is, one which is valuable only if it is merited by one's conduct. As

³⁹ See, for example, Roger Kraut, 'Two Concepts of Happiness', *The Philosophical Review*, 88, 1979, p.183.

⁴⁰ See Parfit, *Reasons and Persons*, pp.499-500.

Finnis observes, though, we tend to think that a good reputation (posthumous or otherwise) is valuable, for the most part, 'as a reassuring sign or mark of one's own real achievements and perfections.'⁴¹ It would make little sense, on this view, to pursue a good reputation for its own sake, for genuine recognition of a person's successes are parasitic on that person doing things worth recognising in the first place. This, however, is not to preclude the thought that a good reputation is an additional intrinsic good, for one's life might go better, for example, if one is not only courageous but is also seen to be courageous by one's contemporaries and descendants.

Objectivist theories of well-being can explain these thoughts, for this type of theory is sensitive to facts about value, indeed it appeals directly to facts about values which are held to be objectively true in the account which it gives of which things are good for persons (e.g. possessing courage and knowledge) and which things are bad for persons (e.g. being deceived or slandered). Respecting a person's reputation, then, will not necessarily enhance their well-being as measured by their possession of an index of these goods. Rather, a concern for one's reputation, and that of others, is justified by an objectivist theory to the extent that this ties in to 'one's concern for truth, one's concern to be in harmony with other persons, and one's concern for practical reasonableness (an authentic realization of one's basic concerns).'⁴²

Objectivist theories of well-being also give more convincing answers in other cases where Hedonism and the SDFT look implausible. Consider the case of a person who possesses informed desires which seem so bizarre that their fulfilment seems utterly

⁴¹ John Finnis, *Natural Law and Natural Rights*, Oxford, Clarendon Press, pp.98-99.

⁴² Finnis, *Natural Law and Natural Rights*, p.99.

unrelated to their well-being. One interesting example discussed by Nagel concerns a person who desires to pass his days attempting to communicate with asparagus plants.⁴³ Suppose that these desires are held despite a full consideration of the alternatives (they are informed desires). Neither the SDFT nor Hedonism can, *without modification*, avoid the implication that to pursue this life-plan would result in the best life for this person.

According to the SDFT, for example, this person would be fulfilling his strongest, informed, and global preferences; according to Hedonism, the fulfilling of these preferences is most conducive to his obtaining pleasurable conscious-states. But this seems absurd. How can a person spending all of their time on something as clearly ridiculous as talking to asparagus plants make their life go well? Objectivist theories, of course, because they take a clear stand on the issue of whether a preference or desire is good or bad, i.e. whether it has value which is not reducible to its desirability or pleasantness, can explain what's going wrong in cases like this. This is that these persons are mistaken about the types of goods which are worth having, asparagus idolatry, for example, not being amongst the list of objectively valuable goods.

There appear to be a number of alternative objectivist theories on the market, but let us restrict ourselves to an analysis of those theories which assume that the list of things which are objectively goods for a person to possess is robust across persons, and treats it as irrelevant that a person identifies with these goods.⁴⁴

⁴³ See Nagel, 'Death', p.5; Parfit, *Reasons and Persons*, p.500.

⁴⁴ Other theories might hold that the list of objective goods is not robust across persons, because it is determined in some way by that person's natural capacities or that, while the list of goods which are valuable is robust across persons, it is a necessary condition that people identify with these goods for them to be valuable.

This brief account of objectivism, and some of its attractions on issues regarding the well-being of contemporaries, must now be applied to the issue of posthumous harms. Does objectivism, as briefly summarised above, imply that people's well-being are vulnerable to posthumous events? The fact that the logic of objectivism when applied to the Smith case implies that it is simply bad to be betrayed even if one is not aware of being betrayed, appears to suggest that it does. The objectivist holds that if a good X is valuable to a person Y , then any change in facts about Y 's possession of X will potentially alter facts about his well-being. This is certainly the case regardless of whether Y knows about this change in facts about his possession of X - indeed is the case even if Y was unaware that (1) he possessed X in the first place or (2) that X is valuable to him/his well-being. If possessing a reputation that mirrors accurately what one has achieved in life is an objectively valuable good, then it seems that losing this good would most almost certainly affect its former owner's well-being.

When we switch from the non-cognisant to the dead there is indeed a difference to be accounted for. The difference is that the dead person's intrinsic properties are *logically* immune from change, as they no longer exist. Before death, though, the person's intrinsic properties were only *contingently* immune from change. Does this make a difference? Only if all changes in well-being require a change in intrinsic properties. But I venture that the whole attraction of Kagan's IPR trades on an element of *subjectivism*. Suppose that one thinks that events can impact upon a person's well-being even if they (1) are not experienced by that person or (2) do not fulfil or thwart any of that person's desires. If one subscribed to this view, what reason could one possibly have for thinking that the fact that an event does not affect

some individual's intrinsic properties can be relevant to the issue of whether that event impacts upon this person's well-being?

Next, suppose that one is unconvinced by either the SDFT or the objectivist theory of well-being when they are viewed in isolation. Some argue that the most coherent account of well-being is constructed from a reconciliation of SDFT and objectivism. The argument here is that a person's well-being consists of having their desires fulfilled, but where the desires which count are determined on objectivist grounds. According to this *mixed* theory, Hedonistic and simple desire-based accounts are flawed because they cannot accommodate the thought that there are some things which people *should* care about, but it is also maintained that our acting in ways which are worthy of desiring is good for us *only* if these acts connect up with our values and desires. For example, writing a great novel is good for a person - it makes their life go better - only if it is desired by them.⁴⁵

Suppose we find this view compelling. In moving to this view, either from a wholly objectivist or wholly desire-based position, we have no reason to view the notion of posthumous harms with any greater scepticism. This is because it is perfectly plausible (indeed overwhelming likely, I think) for a person to be engaged, and enjoy being engaged, in practices which Objectivists think worth caring about (such as child rearing) and which have inherently future orientated aspects - aspects *which are vulnerable to events which take place beyond the biological lives of their participants*.

⁴⁵ See Parfit, *Reasons and Persons*, pp.501-2; and Raz, *Morality of Freedom*, pp.288ff.

6. Conclusions: The Limits of the Symmetry View

Suppose that, despite the problems already outlined, one accepted that the well-being of the dead could - if certain conditions prevailed - be affected by posthumous developments, such as slanderous accusations or by the failure to develop certain plans or projects. Would this really give rise to any degree of symmetry of power, or reciprocity, even in the weak sense I identified in the previous chapter? There are at least three considerations which suggest that it would not.

First, on the *quantitative* side, the magnitude of the reciprocity is a problem. Not all people have deeply felt, and globally directed, desires which will be liable to fulfilment, or frustration, by states of the world subsequent to their death. So the number of people whose well-being will be vulnerable to posthumous harm (considerations of Non-Identity aside) would appear to be far less than the number of future people whose well-being will be shaped before they are even born (for example by the climate policies adopted by the predecessors). Moreover, much of what determines a person's well-being will be determined by events which cannot be undone by posthumous events, such as whom they married, how their marriage fared, whether they brought up children successfully and so on. This substantial element of a person's well-being will go with them to the grave.

Second, on the *qualitative* side, the nature of the reciprocity proposed by the Symmetry View is in doubt. Usually we think of reciprocity as arising from relations which can be characterised by 'fitting and proportional returns of like for like.' Even Becker's idea of intergenerational reciprocity, for example, entailed generation, *N*, passing on only a fitting and proportional simulacra of what it received from

generation $N-1$ to generation $N+1$. But the goods being traded, for want of a better expression, in the case of the intergenerational Symmetry View appear not only to be *quantitatively* very different, they also seem *qualitatively* different. Perhaps they are even incommensurable too, for how can we compare the good of a posthumous reputation or having one's unfinished plans and projects continued posthumously with the good of inheriting an attractive, habitable biosphere or flourishing cultural institutions?

Bringing these two points together, even taking the most generous view of intergenerational symmetry possible, future persons are still looking more or less incapable of contributing to the well-being of *most* present persons; and even if we think that future persons can contribute to the well-being of some present persons (i.e. those with global future-orientated desires, or objectively grounded interests), this contribution is incommensurable with the contribution which future persons receive from the 'future orientated' actions of present persons. Either way, the reciprocity proposed by the Symmetry View is beginning to look very thin indeed, and unlikely to provide a full solution to the Non-Reciprocity Problem. As a result, I think we have at least some reason to see if there are similar obstacles in the path of intergenerational extensions of *non reciprocity-based* theories of ethics.

Chapter 5: The Non-Identity Problem

1. Introduction

I hope to have demonstrated in the previous two chapters that, even if it could be shown that there existed a tight connection between the notion of reciprocity and the scope of distributive ethics, this would not necessarily entail that only existing persons have valid claims to economic and social benefits. In this and the next chapter, I want to explore the thought that the intergenerational extension of some familiar *Non-Reciprocity based* theories of ethics is problematic for considerations unconnected with the alleged lack of reciprocal dealings between members of different generations.

The problems I consider flow from a unique philosophical puzzle which confronts those who wish to explain our responsibilities to future generations in terms of the language of *disadvantages* and *harms*. Put simply, the puzzle flows from the fact that while many think that the performance of actions, or adoption of social policies, which lower the quality of life enjoyed by certain future persons relative to that of existing persons are unethical, it is unclear how future persons can be harmed, or disadvantaged, by acts or social policies which are necessary conditions of their coming into existence. Following Parfit, we might call this the *Non-Identity Problem*.¹ The Non-Identity Problem presents a serious challenge for a whole range of accounts of environmental, and intergenerational, ethics which assume that actions

¹ Derek Parfit, *Reasons and Persons*, Chapter 16, pp.351ff.

or policies can be wrong only if they harm, disadvantage or victimise particular human or non-human animals (I call these *identity-dependent* accounts).

In this chapter, I offer a critical discussion of the Non-Identity Problem, explain how it renders problematic the intergenerational extension of many *non* reciprocity-based ethical theories, and go on to evaluate one of the most interesting attempts to solve it. In section 2, I introduce the simplest sort of case in which the Non-Identity Problem arises. Here, a woman must choose between conceiving a handicapped child now or waiting a few months in order to receive some treatment which would have the result that she would conceive a non-handicapped child. I call this a *single-person* instance of Non-Identity. Next, in section 3, I go on to describe a more complex sort of case in which the Non-Identity Problem arises. Here, a society must choose between different environmental policies which will have markedly different impacts on the distribution of benefits and burdens across generations. I call this a *social-policy* instance of Non-Identity. Finally, in section 4, I consider the way in which right-based considerations might be applied to the cases of Non-Identity discussed in sections 2 and 3.

2. The Single-Person Non-Identity Problem

The identities of persons who come into existence are remarkably sensitive to the conditions which lead up to their conception. In fact, any given person who exists today would, on most familiar views of personal identity, not exist if they had not

grown from the pair of cells (ovum and sperm) which they did in fact grow from. This has been called the *Time-Dependence Claim*.²

The Time Dependence Claim, when combined with some other assumptions, gives rise to a puzzling problem for those who wish to extend familiar harm-based requirements of ethics to the intergenerational context. It renders problematic, for example, the idea that particular individuals who were born suffering from some serious illness (but who nevertheless will lead lives which are worth living) can claim that they had thereby been *harmed* or *wronged*, even if the cause of the illness could have been detected and treated prior to their conception. We might call these *wrongful-handicap* cases.³

With these preliminary remarks in mind, consider the following two cases which involve children suffering handicaps which could have been avoided.⁴

² Parfit, *Reasons and Persons*, pp. 351ff. Parfit's exact formulation of this claim is that 'if any particular person had not been conceived when he was in fact conceived, it is in fact true that he would never have existed' (p.351). See also Saul A. Kripke, *Naming and Necessity*, Cambridge, Harvard University Press, 1980, pp.112-3; and N.J. Zohar, 'Prospects for "Genetic Therapy" - Can a Person Benefit From Being Altered?', *Bioethics*, 5, 4, 1991, pp.281-82. Having developed from a singular egg and sperm is, of course, only a *necessary* condition of personal identity, otherwise identical twins would be the same person.

³ See, for example, Dan W. Brock, 'The Non-Identity Problem and Genetic Harms', *Bioethics*, 9, 3/4, 1995. Wrongful handicap cases can be contrasted with *wrongful-life* cases, which differ only in that the child's ailment in a wrongful life case is *incompatible* with that child leading a life which is worth living. Both wrongful-life and wrongful-handicap cases might usefully be viewed as examples of the wider category of *wrongful-procreation* cases.

⁴ Similar examples are discussed by Brock, 'The Non-Identity Problem and Genetic Harms', pp.270ff; Parfit, 'Rights, Interests, and Possible People' in *Ethical Problems of Medicine*, Samuel Gorowitz et al, eds., Englewood Cliffs, New Jersey, Prentice-Hall, 1976, pp.369ff; Parfit, *Reasons and Persons*, pp.358-61, pp.375-77; and Michael Tooley *Abortion and Infanticide*, Oxford, Clarendon Press, 1983, pp.258-59.

2.1 The Cases of Anna & Bella

Anna, a woman who intends to have a child but has yet to conceive, is diagnosed with a rare, but reversible, condition which heightens the risk of a handicap befalling any child she might conceive while suffering from it. As a result, Anna must choose between conceiving a child now in the knowledge that this child may well be born handicapped (call this the ‘no-treatment strategy’) or having the condition cured and subsequently, say two months later, conceiving a different child who will, predictably, be born without the handicap (call this the ‘treatment strategy’). The child will be different because delaying her pregnancy by two months will result in her child having grown from a different combination of egg and sperm (the implication of the Time Dependence Claim for this case). Because Anna’s choice, by stipulation, will affect the identity of a future person, but not the numbers of future people, it is what Parfit calls a *Same Number Choice*.⁵ It is also a paradigmatic case of ‘wrongful handicap.’

In the case of *Bella*, a woman who is already pregnant is diagnosed with a similar condition as in the case of Anna. Bella must choose between not having the condition cured and as a result conceiving a handicapped child (the ‘no treatment strategy’) or having the condition cured and conceiving the same child without genetic handicap (the ‘treatment strategy’). Because Bella’s choice will not affect the identity of her child, or, we suppose, the numbers of people who will ever live, it constitutes what Parfit refers to as a *Same Person Choice*.⁶

⁵ See *Reasons and Persons*, p.356.

⁶ See *Reasons and Persons*, p.356.

Suppose that in both of these cases the 'no treatment strategy' is adopted. What would be the ethical requirement that each woman ignores in doing so? One might think that the relevant requirement would quite obviously be '*not to harm, and thereby wrong, one's child by bringing it into existence in an avoidably handicapped state*'; and that the objection to the adoption of the 'no treatment strategy' in each of the above cases would be 'equally and seriously wrong', as Brock has put it.⁷ The idea here is that the fact that Anna's choice is of the *Same Number*, rather than *Same Person* variety, should make no difference to the way in which we evaluate it from the ethical point of view; in such cases the same regrettable outcome is brought about, namely, the existence of a single human being who will suffer unnecessarily.

One ethical principle which appears to undermine the existence of such a requirement, however, is the following, which has been called the *Person-Affecting Restriction*. This states that

An act is wrong *only* if it makes someone worse off than they would have been if this act had not been performed.⁸

The Person-Affecting Restriction captures what, for many, appears to be an intuitively plausible view of ethics according to which wrong-doing must always involve doing wrong *to someone* - to a particular human being. If we endorse this restriction, and the *identity-dependent* view of ethics it presupposes, it appears that we

⁷ See Brock, 'The Non-Identity Problem and Genetic Harms', p.270.

⁸ See Parfit, *Reasons and Persons*, p.370; Tooley, *Abortion and Infanticide*, pp.285-6; Thomas Schwartz, 'Obligations to Posterity', in R.I. Sikora and Brian Barry, eds., *Obligations to Future Generations*, Totowa, New Jersey, Temple University Press, 1978, pp.11-12; James Fishkin, *The Dialogue of Justice*, New Haven, Yale University Press, 1992, p.9; Jonathan Glover, *What Sort Of People Should There Be*, Harmondsworth, Penguin Books, 1984, p.146; and Temkin, 'Harmful Goods, Harmless Bads', p.290.

cannot also retain - if consistency of belief is anything to go by - the conviction that Anna's and Bella's adoption of the 'no treatment strategy' is equally and seriously wrong. This is because Anna's choice, but not Bella's, does not result in any particular person being harmed or disadvantaged.

Let me explain. Suppose that, irrespective of the choices made, the children which Anna and Bella give birth to will lead lives which are at least worth living. Each, we assume, will at no point in their lives regret that they had ever been born, and will not suffer from a handicap which calls into question their ability to maintain access to a minimal degree of personal mobility, or exercise a certain degree of autonomy, or experience some degree of self-respect. While Bella's actions are objectionable on the grounds that they cause a preventable harm to befall her child (who could either have existed in the harmed state of being handicapped or the non-harmed state of being non-handicapped), in the case of Anna the employment of the 'treatment strategy' would have prevented the retardation of one child at the opportunity cost of bringing into existence a completely different, and non-handicapped, alternative child.

Next suppose that, after weighing up her two possible courses of action, Anna adopts the 'no treatment strategy'. Here the objection to Anna's actions cannot be grounded in the harm done to the child she actually conceives, but rather some feature of the good done to, or some other feature of the universe which includes, the child which she could have later conceived. But this objection to Anna's actions would be inconsistent with the Person-Affecting Restriction, and this could not be framed in identity-dependent terms.

2.2 Non-Identity, Reciprocity, and the Issue of Wrongful Handicap

Recall the distinction between reciprocity and non reciprocity-based theories of distributive ethics. It was argued in the last chapter that one way of avoiding the problems associated with the lack of reciprocal dealings between generations and the persons belonging to them was to adopt an ethical theory which *denied* that there is any close connection between the notions of reciprocity and the scope of ethics. However, it appears that many non reciprocity-based theories, even if they avoid problems of Non-Reciprocity, are nonetheless prone to considerations of Non-Identity. Such theories seem ill placed to explain what the objection is to Anna's choice of the 'no treatment strategy', for many (if not all) of these theories appear to adopt a person-affecting, or identity-dependent, structure.

This should be disconcerting for the proponents of these theories, firstly, because the circumstances of the Anna case are not at all far fetched and, secondly, because cases like this raise important distributive questions. Thus, one of the by-products of the enormous efforts currently being made under the auspices of the Human Genome Project, for example, is that many more women in the future will be given the opportunity of pre-conception screening for genetic illnesses; and the results of these tests will influence the decisions of many women concerning whether or not to continue with their planned pregnancy without treatment, to delay pregnancy and seek treatment, or to delay pregnancy indefinitely. Moreover, these procreative actions will clearly have an impact on the distribution of benefits and burdens across generations; in this case, benefits and burdens which relate to the overwhelming costs of disability in young children which arise out of the negligence of their parents.

Reciprocity-based theories, of course, also appeal to the idea of the vulnerabilities of persons to harm at the hands of others, so one would expect that proponents of such theories would also be disconcerted by the issues raised by the Anna case. However, the interaction between the considerations of Non-Identity and reciprocity renders the implications of Anna-type cases for such theories quite complex to say the least, as the following line of thought demonstrates.

Reciprocity based theories assume that a formal requirement of a person, *X*, being owed duties of distributive ethics by another person, *Y*, is that there be some, or some possibility of, dealings of mutual benefit between *X* and *Y*. In the intergenerational context, this implies that an existing person, *EP*, has no duties of distributive ethics to a future person, *FP*, so long as we assume that *EP* and *FP* will never engage in any kind of mutually beneficial interaction. As we have seen, this assumption can be challenged quite directly by invoking the idea of posthumous harms, and more indirectly by invoking the Trusteeship and Chain of Concern models.

Suppose, next, that we find the idea of posthumous harms plausible. The implication of the Anna case is that it is, when certain conditions prevail, *more difficult* than we previously thought for existing persons to harm their successors. By contrast, the implication of the existence of posthumous harms is that it is, when certain conditions prevail, *less difficult* than we commonly think for an existing (future) person to harm a past (existing) person.

When we bring these two implications together an interesting insight emerges. This is that it appears that it is *existing persons*, rather than their distant successors, who seem to be vulnerable to disenfranchisement from reciprocity-based ethics, for the

members of present generations seem to be highly limited in their ability to harm their successors, whereas our successors may one day be in a position to harm us posthumously with impunity. We might call this the *Reverse Asymmetry View*.

2.3 The Appeal to Side-Effects

One person-affecting, or identity-dependent, response to the idea that subscribing to the Person-Affecting Restriction rules out an account of the wrongness of the 'no-treatment strategy' in the Anna case is captured by the idea of *side-effects*. Here the objection to Anna's actions are based on the indirect effects they have on the lives of other, already existing, people - for example, Anna herself, her partner, her relatives, or her contemporaries. Bringing handicapped persons into existence, it is claimed, will result in harms to already existing persons other than the handicapped persons themselves. It is these harms which provide an explanation of why Anna acts wrongly, and this wrong-doing would be explainable in person-affecting terms.⁹

One problem with the side-effects response has been raised by Glover. He observes that the effects of raising a disabled child, particularly within the child's extended family, will vary enormously from case to case.¹⁰ For some families, the effects of caring for a disabled family member might be disastrous, while for others it might prove to enrich, rather than restrict, the lives of other family members. Moreover, the same appears to hold for the effects of handicapped people on society as a whole.

⁹ See David Heyd, *Genethics: Ethical Issues in the Creation of People*, Berkeley, University of California, 1992, pp.197-203; Tooley, *Abortion and Infanticide*, pp.259-60.

¹⁰ Jonathan Glover 'Future People, Disability and Screening', in Peter Laslett and James S. Fishkin, eds., *Justice Between Age Groups and Generations*, New Haven, Yale University Press, 1992, p.139-40.

Another problem is that the appeal to side-effects *alone* (granted certain assumptions about the nature of ethical requirements) cannot explain the conviction that, if Anna and Bella decide *not* to seek treatment, the actions of both would be 'equally and seriously wrong.' The assumptions concern the way in which acts which violate a single requirement are less regrettable than those which violate a set of requirements which also includes this single requirement within its number. Anna's adoption of the 'no treatment strategy', for example, would be objectionable *only* because of bad side-effects on already existing people, whereas Bella's similar decision would be objectionable because it (1) involved the creation of the same adverse side-effects *and* (2) because it harmed the interests of her child who was thereby rendered predictably and avoidably handicapped.

The assumption that an act which violates multiple ethical requirements must always be more wrong to perform than an act which violates only a single ethical requirement is, of course, controversial. Such controversies aside, I do think that many people's intuitions about the wrongness of Anna's actions here concern their effects on either of the children which she might have, rather than society in general, and as such it seems prudent to bracket the issue of side-effects in order to concentrate on the matter of these latter effects.

2.4 Wrongful Handicap and Alternatives to the Person-Affecting Restriction

According to the Person-Affecting Restriction, Anna's decision to have the handicapped child can only be wrong in virtue of its detrimental impact on the interests of the handicapped child. But as there is no such impact in contexts where

the Non-Identity Problem obtains, are there perhaps other ethical principles might explain our convictions here? One possibility would take the form of a principle which required the minimisation of the amount of suffering, or loss of opportunity, in the world.¹¹ Such a principle might require that Anna, and others in a similar situation, should wait in order to have a healthy child for the sake of benefits this will confer on that alternative (and healthier) child, rather than for the way in which this prevents a harm to befall her handicapped child.

The idea is that we should resist the view that the handicap suffered by Anna's child constitutes a harmed state or that the child is in some way victimised by Anna's actions. Here, our convictions about the wrongness of the negligent strategy in Anna-type cases in general can only be accounted for at the theoretical level by the thought that it amounts to a wrong which fails to create a victim, or as Joel Feinberg puts it, an example of 'harmless wrongdoing.'¹²

At least two principles are at hand which seek to explain how Anna's adoption of the 'no treatment strategy' might constitute an act of harmless wrong-doing. One is proposed by Brock.¹³ Brock's principle, which he calls *N*, states that

individuals are ethically required not to let any possible child or other dependent person for whose welfare they are responsible experience serious suffering or limited opportunity if they can act so that, without imposing substantial burdens or costs on themselves or

¹¹ See Brock, 'The Non-Identity Problem and Genetic Harms', pp.273-4.

¹² See Joel Feinberg, *Moral Limits of the Criminal Law: Harmless Wrongdoing*, Oxford, Oxford University Press, 1988, pp.xxvii-xxix; pp.27-33; and pp.325-28.

¹³ See Brock, 'The Non-Identity Problem and Genetic Harms', p.275; and Parfit, *Reasons and Persons*, p.360.

others, any alternative possible child or other dependent person for whose welfare they would be responsible will not experience serious suffering or limited opportunity.¹⁴

On the most natural reading of *N*, the decision to adopt the 'treatment strategy' in the Anna and Bella cases is required in virtue of the fact that this will result in either the conception, or continued existence, of a child who will experience *less* suffering and limited opportunity than the child who would have been born had the 'no-treatment strategy' been adopted. *N* is not informed by the view that an act can be wrong only if it harms a particular person, and in this sense *N* is not consistent with the *Person-Affecting Restriction*.

On the other hand, *N* does not assume that suffering or limited opportunity can exist except and in so far as it is experienced by some person or other, and in this sense it is a person-affecting ethical principle. It thus occupies a middle ground between identity-dependent principles, such as the Person-Affecting Restriction, on the one side, and identity-independent principles, such as impersonal utilitarian ethical principles, on the other. However, because *N* does not appeal to the notions of harm or disadvantage in the account it offers of why certain acts are impermissible, and others permissible, I will say that it is a special sort of identity-independent principle which we might call a *Number-Sensitive Comparative Principle*.

According to Number-Sensitive Comparative Principles, an act, *X*, is worse than another act, *Y*, only if *X* is worse for people in the sense that *X* would not be as good

¹⁴ Brock also accepts the following principle, *N'*, as a sort of shorthand for *N*. *N'* states that, 'it is ethically good to act in a way that results in less suffering and less limited opportunity in the world' (Brock, 'The Non-Identity Problem and Genetic Harms', p.275).

for the people who later live if *X* is performed as *Y* would be for the people who would later live if *Y* is performed, *on the assumption that the same numbers of people will live in the future no matter which act (or social policy) is chosen*. As such, these principles can be contrasted with other identity-independent principles which are applicable to acts or social policies even when these acts will lead to different numbers of people existing in the future (we might call these *Number-Insensitive Comparative Principles*).

A different suggestion for a Number-Sensitive Comparative Principle which might provide an objection to Anna's choice of the 'no treatment strategy' is proposed by Parfit. According to the principle which he calls *Q*:

If in either of two possible outcomes the same number of people would ever live, it would be worse if those who live are worse off, or have a lower quality of life, than those who would have lived.¹⁵

In the case of Anna, *Q* implies that it would have been ethically better if Anna had taken the 'treatment strategy' because of what this would have done for the child she would have conceived if she had sought to have her condition cured before she conceived. In this sense, Parfit's *Q* and Brock's *N* appear to be quite similar attempts to reconcile Number-Sensitive Comparative Principles - which, recall, take up a sort of intermediary position between fully identity-independent (or impersonal) and fully identity-dependent (or person-affecting) ethics - with the view that Anna's decision to have the handicapped child is wrong.

¹⁵ Parfit, *Reasons and Persons*, p.360.

Such a reconciliation seems plausible so long as the same numbers of persons will exist whatever we do. It remains to be seen, however, if similar principles can generate ethical requirements in analogous Parfitian cases where our actions do impact upon how many people will ever live.

3. *The Social-Choice Non-Identity Problem*

Present decisions concerning the adoption of climate change policies will influence not just the quality of life of future generations (and the persons which belong to them) but also the size and composition of these generations. Take the choices which all industrialised societies faced in the run up to the Kyoto climate change summit concerning policy measures which might be adopted in order to stabilise, and eventually reduce, GHG emissions. There appear to be a variety of different measures which could be used to bring about decreases in such emissions (such as the introduction of carbon taxes and policies to increase energy efficiency to name but two) as well as a whole host of *objectives* for such measures to achieve (a maximum of a doubling of atmospheric CO₂ concentrations in the atmosphere or a stabilisation of year on year carbon emissions being two examples). The adoption of any particular policy measure, because of its widespread effects on consumption, transport provision and on the conditions of human interaction, will influence the identities and numbers of future persons. In fact, it seems safe to say that any particular choice of climate policy which has macroeconomic significance will entirely repopulate the future with different persons than would exist if an alternative policy had been adopted. With these preliminary remarks in mind, consider:

The Conservation-Depletion Case.

A choice must be made between two mutually exclusive, and exhaustive, climate change policies. The first, the Depletion Policy, involves a continuing commitment to non-renewable energy sources and associated high levels of GHG emissions with no commitment to any offsetting compensation measures for the sake of future generations. The second, the Conservation Policy, involves a move towards heavier reliance on renewable energy sources, tight restrictions on GHG emissions, as well as certain compensatory measures for the sake of future generations (e.g., increased investment in schemes to protect coastal areas which are vulnerable to climate change induced sea-level rises).

Adopting the Conservation policy, it is known, will limit the damage caused by climate change. The Depletion Policy, though, would demand little or no sacrifice of present persons, and, because it would not check the increase of human originating GHG emissions, would have, relative to the Conservation Policy, more serious repercussions on future human well-being (e.g., higher social costs of adapting to higher temperatures and sea-levels).

In fact, it is known with some confidence that, after one or two centuries after the choice has been made, many of the people who would later live if the Depletion Policy is chosen will enjoy a significantly lower quality of life than those who would live if the Conservation Policy is adopted. However, the long-term

disadvantages associated with choosing Depletion are not so severe that the persons who will come into existence if this option is chosen will lead lives which are not worth living

Next, consider the following line of argument which seems to undermine the reasoning behind many people's intuitive objections to the Depletion Policy.¹⁶

As a consequence of the profound impact it will have on even the smallest details of all people's lives, whatever decision is made in regard to the Conservation and Depletion policies will predictably, if indirectly, affect who mates with whom and when, and thus which individuals will be born in the future. This is because all persons owe their existence to the coming together of a singular egg and a singular sperm - and this 'coming together' is highly sensitive to antecedent events. In fact, after a few generations, and depending on which policy we choose, completely different sets of people will come into existence and these sets of people will owe their existence to this prior choice (they would not have been born if this choice had not been made).

Moreover, as we can predict with some accuracy that the adoption of neither policy will result in any of our distant successors leading lives which are not worth living, it appears that choosing Depletion over Conservation will not result in any particular future person being harmed. On the other hand, such a choice would benefit many in the present generation by doing so, as even the limited sacrifices which Conservation will demand of existing persons will be on balance harmful. It seems then that the policy that ought to be adopted is, perhaps counter-intuitively, the *Depletion Policy*.

¹⁶ Various versions of this argument have been put forward, but by far the most influential is Parfit's. See Parfit, *Reasons and Persons*, pp.351ff.

Is there an objection to this line of argument and, if so, what is it? The need to answer these questions gives rise to what has become known as the *Non-Identity Problem*,¹⁷ and the way in which we approach this problem will have great significance for the way in which we approach issues of intergenerational distribution.

3.1. Resourcism, Contractualism, and the Non-Identity Problem

As a starting point for our enquiry into the ethical relevance of the Non-Identity Problem, consider its implication for Barry's theory of intergenerational resourcism - which was outlined earlier in Chapter 2. The Non-Identity Problem appears to pose a severe challenge for this view because Barry's view posits a strong connection between the requirements of distributive ethics on the one side, and the notions of *harm* and *disadvantage* on the other. Barry holds that failures to compensate future generations for deficits in the resource base they enjoy which are brought about by the actions of previous generations are unjust, and that they are unjust because such actions render future people, or the generations they belong to, *worse off* than they otherwise would have been. But the Non-Identity Problem demonstrates that there will be few, if any, cases where a future person will be rendered worse off by their ancestors' profligate emissions of GHGs, because these people would never have existed had policies been adopted by previous generations to restrict these emissions.

This is not a problem which Barry's view faces alone. All views of intergenerational distribution which endorse what has become known as the 'contractualist' view will be prone to the Non-Identity Problem. According to contractualism, the source of

¹⁷ Parfit, *Reasons and Persons*, p.359.

moral motivation is 'the desire to be able to justify one's actions to others on grounds they could not reasonably reject'¹⁸ and an act is wrong only if its performance 'would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement.'¹⁹ For a person to reasonably reject (or raise a decisive objection to) an act or social policy on the contractualist view, this person must (1) be disadvantaged or harmed by it in some way and (2) they must have a complaint grounded in this disadvantage which is unanswerable (we might call this the *Unanswerable Complaints Requirement*).²⁰

Contractualism is quite clearly a *Non-Reciprocity based* ethical theory, so it is not prone to the Non-Reciprocity Problem.²¹ In fact, the whole ethos of this view is that room can be made for the interests of all relevant moral agents (whether human or non-human, present or future) to be considered in judgements about the wrongness of

¹⁸ T.M. Scanlon, 'Contractualism and Utilitarianism', p. 116.

¹⁹ T.M. Scanlon, 'Contractualism and Utilitarianism', p.110. Barry endorses the contractualist view in both *Theories of Justice* (pp.284ff) and *Justice as Impartiality* (pp.67-72). It is worth noting that Barry does not address the difficulties which the Non-Identity Problem pose for his view in any of his published work on intergenerational and environmental justice, although in a recent article he does observe that contractual thinking cannot readily explain our duties to future persons or the non-human world. Thus he remarks that although 'the interests of people in the future should have no less weight than those of people in the present', it does not appear that 'the contractual apparatus is useful in this context; it throws up more problems than it solves.' See 'Contractual Justice: a Modest Defence', *Utilitas*, 8, 1996, p.365. Barry does not go on to state how he thinks we might reconcile contractualism with stringent duties of intergenerational justice, though it appears to be his desire to do so in future volumes of his *Treatise on Social Justice*.

²⁰ See Parfit, *Reasons and Persons*, who observes that on the Scanlonian view 'an act cannot be wrong unless it will affect someone in a way that cannot be justified - unless there will be some complainant whose complaint cannot be answered' (p.523).

²¹ Scanlon claims that, on the contractualist view, 'what is fundamental to morality is the desire for reasonable agreement not the pursuit of mutual advantage. . . the desire for [self] protection is an important factor determining the content of morality because it determines what can reasonably be agreed to. But the idea of a general agreement does not arise as a means of securing protection.' See Scanlon, 'Contractualism and Utilitarianism', pp.115, 128.

actions or social policies. This is demonstrated by Scanlon's claim that 'it should be clear that this version of contractualism can account for the moral standing of future persons who will be better or worse off as a result of what we do now.'²²

However, it is difficult to sustain the view that contractualism can be applied to policy choices which have intergenerational distributive significance. This is because in cases such as Depletion-Conservation there appear to be no *particular* people (either existing or future) whom our acts will affect for the worse, and will thus have a complaint against us, if we choose Depletion. Moreover, as even mildly conservationist policies will require some sacrifices of existing persons, it seems that if any people have unanswerable complaints, here, it will be existing people (for example, those living in the developing world who will suffer if their economies fail to keep growing), and these complaints will be raised against the adoption of the Conservation Policy, not the Depletion Policy.

This is a tremendous problem for both Scanlon and Barry. For if we entertain the strong conviction that the choice of Depletion would be wrong regardless of the inapplicability of the Unanswerable Complaints Requirement, this would seem to undermine Scanlon's (and by extension, Barry's) whole construction. This would be because, as Parfit observes, it is a major failing that the 'fundamental principle of Scanlon's theory draws a distinction where, on our view, no distinction should be drawn.'²³ That is, while we think it ethically irrelevant that the test of reasonable rejection is not applicable in such cases, Scanlon's view suggests that it is ethically

²² Scanlon, 'Contractualism and Utilitarianism', p.115n.

²³ Parfit, *Reasons and Persons*, p. 523n.

relevant, and in fact it shows that we would be doing no wrong by choosing Depletion and thereby damaging the environment which our successors will inherit from us.

For further clarification, let us call all those future persons who will only come into existence if the Depletion Policy is adopted, the *Depletion People*, and all those who will only come into existence if the Conservation Policy is chosen, the *Conservation People*. Can sense be made of the idea that the Depletion People have reason to reject the line of reasoning of those who decided to adopt this policy, even on Scanlon's generous view of the scope of ethics in general terms? The Conservation and Depletion People, though contingent on our choice of climate policy, will possess interests which can be harmed *once they have been brought into existence*. No one seriously doubts, I suspect, that people in the future will have the capacity to experience pain or distress, or for that matter joy or happiness, or that these capacities will be influenced by the state of the natural, cultural and socio-economic environments which these people inherit from their predecessors.

The problem lies rather in the idea that the ethical basis of certain acts or social policies could be reasonably rejected on the grounds of the interests of persons which would not have been served better as a whole, or *all things considered*, had the policy in question (e.g. Depletion) not been adopted. The only alternative for the Depletion People to being born into the polluted future world, however, would have been non-existence; and the claim that a person's not being brought into existence might be in some respect *better* for that person than leading a life which is worth living (if limited in certain ways) does not seem plausible. As a result, it appears that just as Anna does not appear to be harming or wronging her child if she declines pre-conception

treatment, those who are responsible for choosing between the Depletion and Conservation policies appear neither to be harming nor wronging any members of future generations if they decline to adopt the Conservation Policy.

Next suppose that the same people will exist whatever policy was adopted; that is we simply ignore for a moment the implications of the time-dependence claim for this case. This is not strictly speaking a plausible proposition, however it does enable us to clarify what ethical line of thought is ruled out by considerations of Non-Identity.²⁴

On the assumption the same people would exist in the future whatever policy is adopted, a contractualist explanation could be provided for the wrongness of the Depletion Policy's adoption. This would be that many future persons will be worse off when they come into existence than they might otherwise have been - for in this case the Depletion and Conservation People will be one and the same. That is, in the one possible future (of Depletion) future people will inherit a world in which vector-borne diseases, rising sea-levels, and extreme weather events customarily injure and kill many more of them than in the alternative possible future (of Conservation).

When we re-introduce ourselves to the reality of the precariousness of human origins, however, this objection - and the complaints which sustain it - seems to disappear. So the problem is that it is unclear how contractualism can cope with the problem raised by future people who owe their existence to actions which worsen the conditions in which they live.

²⁴ Parfit appeals to this supposition in his discussion of the implications of the Non-Identity Problem for right-based explanations of the wrongness of depletion in *Reasons and Persons*, pp.365-6.

I have focused on the questions raised by the Non-Identity Problem for theories of intergenerational ethics, such as Barry's, which explicitly endorse the contractualist view. However, similar questions will be raised for numerous other theories which appeal, at least in part, to the way in which acts or social policies harm or disadvantage particular persons when they are extended to deal with questions of intergenerational justice. It would appear to call into doubt, for example, certain recent attempts to use Locke's well-known second proviso - according to which acquisitions of natural resources must leave 'enough, and as good left in common for others' - to ground stringent requirements of environmental conservation, where this proviso is interpreted in an identity-dependent manner (i.e. when it is interpreted to require that appropriations of natural resources by existing persons ought to make future persons no worse off).²⁵

3.2 Four Inconsistent Beliefs

Recall that *identity-dependent* theories direct us to make particular human beings, or animals, healthier or happier or rescue people from harm or disadvantage - particularly if these disadvantages arise through no fault of their own. As such, identity-dependent theories can be contrasted with *identity-independent* theories, according to which it can be wrong to perform acts or adopt social policies, even if they do not harm any particular persons. Such theories direct us to promote health or happiness, and to eliminate poverty or disease from an *impersonal* point of view (that

²⁵ John Locke, *Two Treatises of Government*, London, Everyman, 1924, Book II, Chapter V, Section 27, p.130. See also R. Elliot, 'Future Generations, Locke's Proviso and Libertarian Justice', pp.217ff.

is for reasons quite apart from the way in which particular individuals are affected by these phenomena).

One way of illustrating the problem that considerations of Non-Identity pose for identity-dependent theories of environmental and intergenerational ethics is to note that it tempts the proponents of these theories into holding four, mutually inconsistent, beliefs. According to these beliefs:

(A) adopting the Depletion Policy is wrong.

(B) an act or social policy can be wrong only if it harms or disadvantages a particular person

(C) an act or social policy harms or disadvantages a particular person only if it makes them worse off than they would have been had the act not been performed all things considered

(D) the adoption of the Depletion Policy is a remote, but necessary, condition of the Depletion People coming into existence and leading lives which are worth living.

If we are inclined towards an identity-dependent view, it seems that we are faced with serious difficulties when we attempt to construct a consistent approach to questions of intergenerational distribution. For example, if we are to construct an account which explains why choosing the Depletion Policy in the above case would violate some requirement of distributive ethics, it would seem that one or a combination of beliefs

B and C must be revised.²⁶ However, both of these beliefs appear to command a measure of intuitive support in the literature.

David Heyd, for example, has argued recently for the view that the price of abandoning either of these beliefs, and with them the identity-dependent view, is simply too high.²⁷ Endorsing a view which he calls *generocentrism*, Heyd claims that ethical obligations can be owed only to persons whose identities lie beyond the reach of the Non-Identity Problem. But because persons whose identities do not depend on present decisions will almost invariably belong to the present generation, Heyd claims that we have no ethical obligations to the vast majority of future individuals.²⁸ If this *rigidly* identity-dependent view could be defended, it would appear that the Non-Identity Problem has massive implications for the nature and scope of intergenerational and environmental ethics. It would imply, for example, that acts or social policies which result in the emission of huge amounts of GHGs into the atmosphere, and a lowering of the quality of life of future generations, do not violate any requirements of distributive ethics.²⁹

Putting Heyd's approach to one side, there appear to be at least two main ways in which we might retain belief A in the context of social policy Non-Identity cases such

²⁶ I put aside the possibility of revising belief D in order to retain beliefs A, B and C - a move which seems at the very least inconsistent with the pre-eminent theories of personal identity. See Parfit, *Reasons and Persons*, pp.351-55.

²⁷ Heyd, *Genethics*, pp.80ff.

²⁸ This view is also defended by Thomas Schwartz. Schwartz argues that, 'whatever we may owe ourselves or our near posterity, we've no obligation extending indefinitely or even terribly far into the future to provide any widespread, continuing benefit to our descendants.' See Schwartz, 'Obligations to Posterity', in R.I. Sikora and Brian Barry, eds., *Obligations to Future Generations*, p.3.

²⁹ It is worth noting that the Non-Identity Problem appears to call into question the idea of obligations to both future humans and non-humans. This is because the identity of particular non-human animals will be as contingent on events which pre-date their existence as their future human counterparts.

as Conservation-Depletion, while also retaining an identity-dependent view of ethics. First, we might revise belief B in order to retain beliefs A, C and D. This suggestion has been developed in quite different ways, although the most important of these proposes that, although no particular future members of the Depletion People population are harmed by the Depletion Policy's adoption, certain *collectivities* which make up the Depletion People population can be harmed by it. Second, we might revise belief C. The idea here is that the concept of harm should be broadened such that an act or social policy harms a person (or collectivity) so long as it renders them, or their interests, worse off *in at least one respect*.

I return to these proposed revisions after some remarks about the limited scope of the problems which considerations of Non-Identity pose for environmental and intergenerational ethics.

3.3 The Limits of the Non-Identity Problem

Even if we suppose that the Non-Identity Problem is of relevance for debates about our obligations to future generations, and the issue of environmental ethics in more general terms, it does appear that considerations of Non-Identity do not pose a problem for all theories of environmental concern. One way of explaining why this is the case is to see how the problem relates to such theories.

In what has become a standard taxonomy of this field of inquiry, we might distinguish between *anthropocentric*, *zoocentric*, and *ecocentric* modes of environmental thought.³⁰ Anthropocentric theories are those which attribute value

³⁰ See, for example, Brian Barry, *Justice as Impartiality*, pp.20ff.

only to states of human beings. One prominent example is the 'green theory of value' proposed by Robert Goodin. According to this view, the value of the natural world can be traced only 'to its value to human beings and the place it occupies in their lives.'³¹

Zoocentric theories, by contrast, attribute value only to states of sentient creatures, including human beings. The idea here is that the desire to restrict the concerns of environmental ethics to the well-being of human beings represents a sort of 'human chauvinism'³² which ignores the fact that species membership is essentially 'a morally irrelevant difference between individuals.'³³ According to Singer, for example, if we are committed to the fundamental principle that each human being's interests must be treated with equal concern and respect, we are also committed to accepting this principle of equality 'as a sound moral basis for relations with those outside our own species [such as] non-human animals.'³⁴

Finally, ecocentric theories reject the idea that the natural environment is only valuable to the extent that it provides a context for the flourishing of humans or other sentient creatures. In contrast, this mode of thought presupposes that components of

³¹ Robert Goodin *Green Political Theory*, Cambridge, Polity, 1992, pp.42-3. A similarly anthropocentric stance on the value of the natural environment is endorsed by the World Commission on Environment and Development's influential report *Our Common Future*. In the foreword to this report, Gro Harlem Brundlandt argues that human well-being 'is the ultimate goal of all environment and development policies' (p.xiv).

³² See Richard and Val Routley, 'Against the Inevitability of Human Chauvinism', in Robert Elliot, ed., *Environmental Ethics*, Oxford, Oxford University Press, 1995, pp.104ff.

³³ Elliot, *Environmental Ethics*, p.9.

³⁴ Peter Singer, *Practical Ethics*, Cambridge, Cambridge University Press, 1993, p.55.

the natural world such as plant life, and possibly the biotic community as a whole, possess value independently of humans or animals.³⁵

I do not think it is necessary to take a stand on which of these modes of theorising best captures our concerns about the environment, or indeed intergenerational ethics, in order to recognise that the Non-Identity Problem only calls into question the scope of *certain varieties* of anthropocentric and zoocentric (and possibly ecocentric) theorising, namely, those which appeal to ethical categories that make essential reference to how things are for particular individual humans, other sentient creatures, or particular natural objects.

The Non-Identity Problem, for example, does not seem to undermine the intergenerational extension of identity-independent ethical theories such as impersonal utilitarianism or perfectionism, and this would appear to be true of certain variants of anthropocentric, zoocentric and ecocentric theorising as well. Here our convictions about the wrongness of choosing the Depletion over the Conservation Policy, and of Anna's decision to conceive the miserable child, remain intact because our view is essentially that ethics is at a fundamental level not grounded in concerns about the way things are for *particular* humans or groups of humans.

Identity-independent ethical theories hold that damaging the environment, or bringing a miserable person into the world, here, is wrong solely because of the way that it violates certain *impersonal* ethical principles, such as the requirement to maximise the total utility of a population or promote the flourishing and perfection of mankind

³⁵ See Paul Taylor, *Respect for Nature*, New Jersey, Princeton University Press, 1986; Kenneth Goodpaster, 'On Being Morally Considerable', *Journal of Philosophy*, 78, 1978, pp.308ff.

or promote the flourishing of the natural world and so forth - values which are only indirectly connected to the well-being of particular members of existing and future populations of human beings. The Non-Identity Problem is not really a problem at all for proponents of these norms, or for others who do not appeal *even in part* to identity-dependent principles such as *the Person-Affecting Restriction*, for it is only these sorts of principles which explain the wrongness of actions, or policies, in terms of notions such as rights, interests, harms or volitions, which can themselves only be explained in the way they are attached to particular, usually human, bearers.

Nevertheless, there are at least three considerations which support the view that an investigation of identity-dependent approaches to the Non-Identity Problem is worthy of closer inspection. First, even if we reject the view that identity-dependent theorising captures the whole of the story of intergenerational or environmental ethics, it seems likely that it at least plays some part in this story. Harm-based and victim-based theorising is extremely well rooted in discussion of *intragenerational* ethical issues, such as abortion, euthanasia, careless driving, freedom of speech and so forth. Such theorising is also to be found at the very heart of the legal system of most countries. As a result, it seems worth exploring the limits of such theorising in the novel context of intergenerational ethics if only for the possible insights this might bring us in our quest for further insights regarding issues of *intragenerational*, or *same person*, ethics.

Second, environmental theories which makes no reference to how things are for particular individual entities, such as impersonal utilitarianism or biotic holism, are contentious to say the least. Parfit, for example, has done much to demonstrate that

applying identity-independent utilitarian principles to questions of intergenerational distribution leads to paradoxical results.³⁶ Moreover, the idea behind biotic holism, that ethical standing be extended to components of the biosphere (such as rocks, trees, species of plant or animal life) - or even the biosphere as a whole - seems wildly counter-intuitive to many.³⁷

Third, as noted earlier, much theorising about the environment and intergenerational ethics remains stubbornly tied both to considerations of harm and victimhood on the one side, and the interests, needs, rights, and desires of particular sentient creatures on the other. This is revealed in the brief discussion of Barry's and Scanlon's views above, but an additional example of note arises from the work of Shue which specifically addresses the issue of climate change.

Shue has claimed recently, for example, that we should conceive of the harmful effects of climate change as analogous to those of passive smoking, the idea being that both the activity of smokers, and of profligate emitters of GHGs, render other non-smokers and non-emitters *worse off* through no fault of their own.³⁸ Shue, however, fails to acknowledge that the fact that future persons owe their very existence to the profligate actions of previous generations in these cases means that they cannot apparently complain that they have been harmed, or rendered worse off,

³⁶ One problem which Parfit raises is that, in line with the duty to maximise social utility across generations, utilitarianism could require us to adopt environmental policies which lead to a huge number of people existing in the future who lead lives of poor overall quality instead of policies which lead to a much smaller number of people existing in the future who lead lives of a much higher quality. See Parfit, *Reasons and Persons*, pp.381ff.

³⁷ For criticism of the ecocentric view, see Andrew Brennan, 'Ecological Theory and Value in Nature', in Elliot, ed., *Environmental Ethics*, pp.195ff.

³⁸ See Henry Shue, 'Avoidable Necessity: Global Warming, International Fairness, and Alternative Energy', in A. Hurrell and B. Kingsbury, eds., *The International Politics of the Environment*, Oxford, Oxford University Press, pp.245-6.

by them. In this respect, the analogy between the effects of passive smoking on the one side, and the effects of depletionist policies on future generations on the other, seems unsound.

4. Rights and the Non-Identity Problem

Recall that the problem with applying identity-dependent theories, such as contractualism, to the Conservation-Depletion case is that no person who owes their existence in part to the adoption of the Depletion Policy appears to have a complaint against their predecessors adopting these policies, even if this policy would lead to a lower quality of life in the future. This is because this policy, although it appears objectionable, does not render any particular future people worse off than they otherwise would have been. It appears, then, that what proponents of identity-dependent principles need to do if they are to explain the objection to the adoption of the Depletion Policy is to show how actions can be harmful, and therefore impermissible, even if they render individuals no worse off than they otherwise would have been. This is the challenge which I take up in the remainder of this chapter, and in the whole of the next: a challenge which, I will argue, rests on the ethical convictions which I labelled B and C above being revised.

The approach to the Non-Identity Problem that I will be investigating in the next chapter, which I will call the *group-centred view*, is based on the idea that belief B can be revised from stating that ‘an act is wrong *only* if it makes a person worse off than they would have been if this act had not been performed’, to the view that

(B') an act is wrong *only* if it makes a person or *collectivity* worse off than they would have been if this act had not been performed.

By contrast, the approach to the Non-Identity Problem that I will be dealing with in the remainder of this chapter, which I will call the *appeal to specific-rights*, is based on the idea that belief C can be revised from reading that 'an act or social policy harms or disadvantages a particular person only if it makes them worse off than they would have been had the act not been performed all things considered' to the view that

(C') an act or social policy harms or disadvantages a particular person only if it makes them worse off than they would have been had the act not been performed *in at least one respect*.

Capturing the subtlety of these revisions, and their application to the issue of Non-Identity, requires some preliminary discussion both of the way in which the Non-Identity Problem undermines right-based theories of intergenerational ethics in the circumstances where it arises, and of the difficulties in extending rights discourse to questions of distribution between non-contemporaries in general terms. In the following, I review the contentious issue of the rights of future persons (section 4.1 and 4.2) before going on to discuss the idea of revising belief C in line with an appeal to the notion of specific interests and rights (section 4.3 and 4.4).

4.1 Interests, Choices, and the Rights of Future Persons

There are several objections to the claim that future persons, such as Anna's child or the Depletion or Conservation People, possess rights against their predecessors. According to the first, and perhaps the most sweeping of these objections, it is claimed that considerations connected with the formal, or analytical, nature of rights discourse rules out non-existing entities from being the bearers of rights claims of any sort. The objection is raised quite explicitly in the work of Hillel Steiner,³⁹ but will be endorsed by all proponents of what has become known as the *choice-theory of rights*. According to this theory, rights are associated analytically with their bearers in a particular sort of way. In short, the right bearer possesses a right, not in virtue of any benefit he will derive from another being constrained so as not to violate it, but rather because 'he is ethically in a position to claim the performance of a duty from another, or to waive it, and therefore to determine by his choice how the other ought to act.'⁴⁰

This aspect of the choice-theory (that right-bearers are viewed as active, choosing agents - that rights are 'domains of choice'), entails that ascribing rights to entities which are incapable of making the sorts of choices which rights-possession requires is to make a *formal* mistake. But future people are precisely unable to make such choices in the present, so ascribing future persons rights in the present is to make just such a formal mistake. As Steiner puts it, 'it is precisely because future persons are necessarily incapable of choice, that they cannot [according to the choice-theory] be

³⁹ See Hillel Steiner, 'The Rights of Future Generations', in D. Maclean and P.G. Brown, eds., *Energy and the Future*, pp.154-5; *An Essay on Rights*, London, Blackwell, 1994, pp.259-61; and 'Markets and Law: The Case of Environmental Conservation', in M. Moran and M. Wright, eds., *The Market and the State: Studies in Interdependence*, London, Macmillan, 1991, pp.49-52.

⁴⁰ Jeremy Waldron, *The Right to Private Property*, Oxford, Clarendon, 1988, p.95.

said to have rights against present persons.’⁴¹ This does not quite follow directly from such entities’ inability to exercise or press their claims *in person*, for, as Steiner notes, in certain cases a third party can be authorised to do this.⁴² Rather, it follows from the logical incoherence of the claim that non-existent entities - such as members of future generations - can either exercise their rights or confer them on some third party to exercise on their behalf.

It is worth pointing out that choice-theorists are not necessarily committed to the view that existing persons have no duties to protect the environment which future generations will inherit from us. Rather, they may hold that such duties exist but are not explicable in terms of an appeal to obligations which are *owed to* particular future individuals as such. Steiner, for example, although he denies that future persons possess rights against their ancestors, does concede that ‘we do have moral duties with respect to our own and our contemporaries’ remote descendants.’⁴³ Moreover, as he concedes that the choice-theory of rights is consistent with the thought that ‘present persons can have rights that other present persons conserve’, Steiner’s view seems reconcilable with the existence of duties which were suggested to arise from the Chain of Concern model discussed in Chapter 3.

I take the liberty, here, of not reviewing the strengths and weaknesses of the choice-theory of rights.⁴⁴ I think that Steiner is quite correct that such a theory is not consistent with the possibility of a right-based objection to the sorts of actions (and

⁴¹ Steiner, ‘The Case of Environmental Conservation’, p.52.

⁴² Steiner, ‘The Case of Environmental Conservation’, p.50.

⁴³ Steiner, *An Essay on Rights*, p.259.

⁴⁴ These are reviewed by Jones in *Rights*, pp.32-6; and Jeremy Waldron, ed., *Theories of Rights*, Oxford, Oxford University Press, 1984, pp.9-12

policy decisions) with which we are concerned with. Moreover, this incompatibility has nothing essentially to do with the Non-Identity Problem, for Steiner's view also rules out future persons whose identities have already been fixed (such as Bella's child) from possessing rights.

I do not think that those sympathetic to right-based principles in general ought to be overly concerned about this, however. This is because there is another theory of rights which seems much more in tune with our considered convictions about the nature and scope of rights-discourse. As such, I think that we have reason to put the choice-theory to one side at this point in order to see the implications of holding the alternative *interest-theory of rights* in contexts where the conditions of the Non-Identity Problem obtain.

According to the interest-theory, to say that an agent, *X*, has a right implies that 'other things being equal, an aspect of *X*'s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty',⁴⁵ and in contrast to the choice-theory, there is little in the formal nature of this account which, considerations of Non-Identity aside, appears to exclude the not yet born from possessing rights. This is because it can be assumed that there will be people who exist in the future, that these people will possess interests which will be vulnerable to harm, and that the actions of existing persons - particularly those affecting the integrity of the natural environment - will have profound effects on these interests (as is suggested in Chapter 1's review of the likely long-term impacts of climate change).⁴⁶

⁴⁵ Joseph Raz, 'Right-Based Moralities', in Waldron, ed., *Theories of Rights*, p.183; see also Raz, *The Morality of Freedom*, pp. 166ff.

⁴⁶ For a defence of the view that future persons have rights according to the interest-theory, see Joel Feinberg, 'The Rights of Animals and Unborn Generations', in his *Rights, Justice*

However, there are some serious *substantive* objections to the idea that future persons may possess rights even on the interest-theory, and the most problematic of these flow from considerations of Non-Identity. Consider, for example, the following line of argument.

Persons whose rights are in danger of being violated in cases of Non-Identity, such as the child in the Anna case, can exist *only* in the state in which their rights are violated. It follows that the only way in which these persons' rights could have been fulfilled would have been for them never to have been born, or, as McMahan argues, for the rights to have been 'deprived of their bearers.'⁴⁷ To ascribe rights to such persons, then, would be to ascribe rights which could not possibly be enforced to persons who owe their existence to these rights being violated. But if one cannot, even in principle, honour or respect any of the rights a person allegedly possesses, so the argument goes, that person cannot actually possess any such rights.

One response to this line of thought might be found in the idea that, in certain situations, respecting a right might require that we act so as to ensure that no one comes to possess that right - whether they be either an existing or future person. Take the cases of Non-Identity introduced above. The idea here is that Anna should choose the 'treatment strategy', and the policy-makers ought to choose the Conservation Policy, because not doing so would violate the principle that people should not be

and The Bounds of Liberty, Princeton, Princeton University Press, 1980, pp.180ff; and Ernest Partridge, 'On the Rights of Future Generations', in Donald Scherer, ed., *Upstream/Downstream: Issues in Environmental Ethics*, Philadelphia, Temple University Press, 1990.

⁴⁷See Jefferson McMahan, 'Problems with Population Policy', *Ethics*, 92, October 1981, pp.124ff.; and Doran Smolkin, 'The Non-Identity Problem and the Appeal to Future People's Rights', *Southern Journal of Philosophy*, 32, 1994, pp.316ff.

brought into existence bearing rights that could not possibly be fulfilled - such as the right not to be brought into existence when one will not be able to enjoy access to a life-preserving natural resource, such as clean air or water.⁴⁸ Let us call this the *Inevitable Rights Violations Principle*.

4.2 The Retroactive Right-waiving Objection

The Inevitable Rights Violations Principle seems at face value to defeat the argument against future persons possessing rights mentioned above. It enables us to grant the claim that it is a necessary condition of a right being violated that a recipient of that right actually exists (obligations cannot be owed to possible people on this view - no one has a right to be born, for example). On closer inspection, however, this principle is subject to at least one serious objection. Consider the case of Anna. Since we have assumed that Anna's child will be born handicapped if Anna chooses not to seek treatment, and since we have supposed that any child Anna has will lead a life which is at least worth living, we might assume that the child, once it came into existence, would wish to *waive* its right not to be brought into existence in a state where its rights would necessarily be violated.⁴⁹

⁴⁸ This principle is endorsed by both Parfit and Woodward (although, unlike Woodward, Parfit thinks that it has a quite limited application). According to Parfit's version, 'it is wrong to cause someone to exist if we know that this person will have a right that cannot be fulfilled' (*Reasons and Persons*, p.364). According to Woodward's version, acts or social policies are wrong if they 'involve the creation of rights and obligations that would probably or inevitably be violated' ('The Non-Identity Problem', p.821). I assume in the text that these two slightly different articulations of the principle are interchangeable.

⁴⁹ This problem was apparently first raised by McMahan, 'Problems of Population Policy', p. 127. However, it is expressed in greater detail by Parfit *Reasons and Persons*, p.365. See also Woodward, 'The Non-Identity Problem', pp.822-25.

The idea is that, although Anna's child may think that it would have been wonderful to have been born without her handicap, she might well come to feel glad to be alive, and in fact view her mother's decision not to seek treatment as one which actually furthered, rather than set back, her interests taken as a whole. As we have seen, the decision certainly did not render the child worse off in one prominent sense of the term, according to which to be made worse off a person's interests must be damaged all things considered. Perhaps, then, we can assume that the putative right-bearers in other cases of Non-Identity - such as the Conservation-Depletion case - will similarly *waive* their rights not to be born with rights which could not possibly be fulfilled, so long as their lives are on balance worth living.

Of course, if it could be predicted that the future persons we are thinking about would lead lives which were *not* worth living, then the right-waiving objection would seem rather implausible. Here, one might think that it would be much worse for someone to exist who suffers from some incurable and debilitating disease than for them not to exist at all (although some have denied even this quite intuitive claim).⁵⁰ Consider the non-hypothetical case, discussed by Glover, of a young girl born with a congenital

⁵⁰ David Heyd, for example, thinks that no comparisons can be made between the condition of an existing person, and the 'condition' of that person's non-existence as such. As a result he denies that it can be worse for a person to exist than for them never have been born, no matter how miserable their life is in actuality. In fact, Heyd thinks that people who feel so miserable that they express regret that they were born are making a sort of logical mistake, as are those contented persons who express gratitude for being born (see Heyd, *Genethics*, pp.122-2). Heyd, therefore, dismisses the idea that one can allocate non-existence a sort of notional zero-value in order to facilitate an identity-dependent explanation of how it could be wrong to bring a miserable person (one whose life does not appear to be worth living) into the world. In contrast, Heyd argues that the incommensurability between the subjective values of existence and non-existence cannot be overcome by comparing the zero value of non-existing persons with 'either the positive or the negative net value of the lives of actual people' (Heyd, *Genethics*, p.113). For a critical evaluation of Heyd's view, see Ingmar Persson, 'Genetic Therapy, Identity and The Person-Regarding Reasons', *Bioethics*, 9, 1, November 1995, pp.28-9.

disease called Dystrophic Epidermolysis Bullosa, which is incurable, terribly painful, and would cause the child to die at the age of just twelve weeks. The parents of this child expressed the following view in a letter to *The Guardian*:

we had to watch our first child die slowly and painfully and we could not contemplate having another child if there was a risk that it too would have to die in the same way.⁵¹

Surely it is inconceivable that, if she possessed the ability, this child would *waive* her rights not to be brought into existence suffering such misery - assuming, that is, one may possess a right not to be brought into existence if that entails enormous suffering.⁵²

However, to the extent to which many persons belonging to future generations will lead lives which are well worth living, it could be predicted that at least some of these persons would in actuality wish to waive their rights not to be born with rights and interests which could not be fulfilled. Parfit, for example, defends his version of this claim by appealing to the apparently factual case of 'The Man Who Wrote To *The Times*.'⁵³ Here, a man who was the beneficiary of a fairly poor start to life as a result

⁵¹ Jonathan Glover, 'Future People, Disability and Screening' in Peter Laslett and James Fishkin, eds., *Justice Between Age Groups and Generations*, pp.129-30.

⁵² Interestingly, Heyd's view denies precisely this thought. Heyd thinks that it would not be wrong to have another child just like this one even if its parents had full knowledge that their child would be born with the disease, nor would it be coherent to argue on this child's behalf that the life it was born into would be worse than no life at all. But this seems wildly counter-intuitive. Cases such as this provide the strongest *intuitive* grounds for thinking that a person's life can be not worth living, be of *negative* subjective value, and, consequently, that it would have been better *for them* that they had never been born. As we have seen, Parfit's view is consistent with the thought that it is wrong to bring such persons into the world, but he thinks that the wrong done here is explained not by the harm done to the young girl herself, but by the extra benefit that would have accrued from a different, non-handicapped, child being created.

⁵³ See Parfit, *Reasons and Persons*, p.364.

of being born to a very young woman, argued forcefully that he did not regret being born, and, as such, his mother had not acted wrongly in giving birth to him at such a young age, even though it had been predicted that she would fail to care for him adequately during the early years of his life. In reflecting on this case, Parfit remarks:

Suppose that I have a right to privacy. I ask you to marry me. If you accept, you are not acting wrongly, by violating my right to privacy. Since I am glad that you act as you do, with respect to you I *waive* this right. A similar claim applies to the writer of the angry letter to *The Times*. On the suggestion made above, this man has a right to be born by a mature woman, who would give him a good start in life. This man's mother acted wrongly because she caused him to exist with a right that cannot be fulfilled. But this man's letter shows that he was glad to be alive. He denies that his mother acted wrongly because of what she did to him. If we had claimed that her act was wrong, because he has a right that cannot be fulfilled, he could have said, 'I waive this right.' This would have undermined our objection to his mother's act.⁵⁴

Parfit goes on to claim that a similar line of thought can be exported to the Conservation-Depletion case. That is, on the supposition that the Depletion People lead lives which are worth living, Parfit thinks that the adoption of the Depletion Policy cannot be objectionable in virtue of violating the Depletion People's rights, for if these people were in possession of the facts, they would not regret, and could be

⁵⁴ Parfit, *Reasons and Persons*, p.364 - original emphasis.

expected to waive their rights against, the Depletion Policy being adopted.⁵⁵ How can we harm anyone by performing an act, Parfit asks rhetorically, ‘when we know both that if the people harmed knew about our act, they would not regret this act, and that our act will not be worse for these people than anything else that we could have done?’⁵⁶

Parfit’s point, of course, is not that the policy-makers do no wrong if they choose the Depletion Policy, or that Anna does no wrong in choosing the ‘no treatment strategy.’ Rather, his point is that the right-waiving considerations outlined above demonstrates that the explanation of these wrongs can only be found in terms of identity-independent principles, such as the *Same Number Quality Claim* (or Q). Thus, according to his analysis of the case of the ‘Man Who Wrote to *The Times*’:

it would have been better if this man’s mother had waited. But this is not because of what she did to her actual child. It is because of what she could have done for any child that she could have had when she was mature. The objection must be that, if she had waited, she could have given to some other child a better start in life.⁵⁷

Parfit’s line of thought, here, which I will call the *Retroactive Right-Waiving Objection*, seems to undermine the possibility of an identity-dependent solution to the Non-Identity Problem, so long as this solution is proposed in terms of the claims or interests of future individuals, and so long as we endorse a Parfitian view of harm

⁵⁵ See Parfit, *Reasons and Persons*, p.365.

⁵⁶ Parfit, *Reasons and Persons*, p.373.

⁵⁷ Parfit, *Reasons and Persons*, pp.364-5.

according to which people are not harmed by an act if they are not rendered worse off by it all things considered.

4.3 Specific Interests, Specific Rights, and the Non-Identity Problem

One way of retaining some of the force of a right-based objection to Anna's decision not to seek treatment, or the policy-makers' adoption of the Depletion Policy, would be to claim that a certain variety of interests or rights violations are consistent with the rejection of the Parfitian (all things considered) understanding of harm. Consider the distinction to be made between rights which are grounded in considerations of overall well-being and rights which are grounded in more specific human interests. Let us call these *general* and *specific* rights respectively. Regarding the latter, Woodward argues that

people have relatively specific interests (e.g., in having promises kept, in avoiding bodily injury, in getting their fair share) that are not simply reducible to some general interest in maintaining a high overall level of well-being and that many moral requirements function so as to protect against violations of such specific interests. That an action will cause an increase in someone's overall level of well-being is not always an adequate response to the claim that such a specific interest has been violated.⁵⁸

The Retroactive Right-Waiving Objection appears to deal a mortal blow to the idea that the general rights of the Depletion People, or Anna's handicapped child, can

⁵⁸ Woodward, 'The Non-Identity Problem', p.809.

provide the basis for an objection to either the Depletion Policy's adoption or Anna's conception of the handicapped child. This leaves us, however, with its implication for the notion of specific-rights, such as the right not to be born into a situation where one's interest in leading a dignified or autonomous life could not possibly be fulfilled.

There are essentially two reasons for thinking that the notion of the *specific rights* of future persons might not fall victim to the retroactive right-waiving objection. First, at least some specific rights might be viewed as *inalienable* in the sense that they cannot simply be waived when their possession (or rather their non-violation) is not conducive to the maximisation of their possessor's welfare. Second, there are considerations which suggest that future persons, while they could waive their specific rights if they so wished, have some reason not to waive the rights which are grounded in their specific interests, even if these rights violations are remote, but necessary, conditions of their coming into existence and leading lives which are on balance worth living. Let us put the idea that specific rights are inalienable to one side for the moment in order to concentrate on the second of these claims in more detail.⁵⁹

I start with the thought that there are certain advantages in maintaining the distinction between *specific* and *general* rights even in rather mundane, same person, contexts. Recall that, according to the interest-theory of rights, a person has a right only if an aspect of his well-being is a sufficient reason for holding some other person to be under a duty to him (as Raz puts it, 'rights are always to what is in the interest of the

⁵⁹ I focus here on the issues raised in the exchange between Woodward and Parfit in the Journal *Ethics*, as well as those raised by Parfit's discussion of these issues in *Reasons and Persons*. See Woodward, 'The Non-Identity Problem', pp.810ff; Woodward, 'Reply to Parfit', *Ethics*, 97, 1987, p.802; Parfit, 'Comments', *Ethics*, 96, 1986, pp.854-862; Parfit, *Reasons and Persons*, pp.364-66.

right-holder').⁶⁰ The merit of making space in such a theory for specific rights and interests is that this appears to solve the otherwise puzzling phenomenon that the possession of certain rights appear to be in one's interests in some respects (possibly, all things considered) but not in others.

Take a revealing example discussed by Raz. In certain contexts, a person might enjoy a right against others correlative to the important interest tied to some piece of property that they have acquired. On the other hand, that this person has exclusive rights over the disposal of this property might render them the target of theft, fraud, or of temptation. In fact, if certain conditions hold (say, that the temptation and malice of some band of criminals passes a certain threshold) it could be the case that the right holder's interests taken as a whole may cease to be served by his possessing his right of property (it may put him in danger of being attacked, for example). If rights merely served to protect their holders' *all things considered* interest, then this would seem to imply that being the subject of malicious criminals could result in one ceasing to possess the right to dispose of one's property as one sees fit - an implication which seems absurd. Raz points out a more attractive view is that, to the extent to which possessing the property is at least in its owner's interest *in at least one respect*, then this is sufficient to justify that person possessing a right to it.⁶¹

Raz's intra-temporal, *same person*, example suggests that we ought to abandon the view that all rights function so as to protect a single general interest in their holders' well-being. As such, it also seem to provide some reason to embrace the view that actions can, contra Parfit's analysis, harm (and therefore wrong) a person even if they

⁶⁰ Joseph Raz, *Ethics in the Public Domain*, Oxford, Clarendon, 1994, p. 46.

⁶¹ Raz, *Ethics in the Public Domain*, p. 46.

do not render that person worse off than they would otherwise have been.⁶² This is because such actions might violate a person's specific interests and rights without endangering that person's overall well-being. Consider

The Case of the Alcoholic Mother. In a recent television drama called *Mothertime*, a group of children help to save their mother from alcoholism by devising a radical plan. After returning home drunk on Christmas Eve, and generally behaving badly, the mother loses consciousness only to find the next day that her children have locked her in their basement sauna. The children proceed to keep her locked up in the sauna so that she can dry out, making certain that she has enough food and water to meet her basic physical needs. After initial bouts of rage, and desperate pleas to be let out of captivity, the mother dries out, and the end result is that she and her children enjoy a much higher quality of life than they did before the episode with the sauna began.⁶³

Few will seriously doubt that to be locked in a sauna for several days in this manner constitutes a violation of one's rights. Suppose, however, that the success of the children's radical project could have been predicted in advance. The act of locking their mother up to dry out would be both a predictable cause of both their mother's well-being being improved substantially, and the violation of their mother's right not to be imprisoned against her will and without due representation. The idea here is that

⁶² Woodward, 'Reply to Parfit', p. 802.

⁶³ The drama was screened on BBC2 in the evening of 28 December 1997, and was based on a novel by Gillian White.

the mother has had one of her specific rights violated (say, her right not to be imprisoned), despite the fact that the act which violated her rights served her interests all things considered.

It is important to note that embracing the notion of specific rights and interests need not entail abandoning the identity-dependent framework because the exact nature of this framework is open to interpretation. It might, for example, rest on the view that 'an act cannot be wrong *in any respect* if it is not worse for people than any alternative *in any respect*' or that 'an act cannot be wrong *in any respect* if it is not worse for people than any alternative *all things considered*.'⁶⁴ The appeal to specific rights holds that a right-based objection to certain acts in Non-Identity cases can survive an endorsement of the former, but not the latter, interpretation - and that the latter implausibly assumes that all ethical requirements pick out, or only serve to protect, the all things considered interest of their owners.

Moving to the inter-temporal application of this line of thought, consider the case of *Grant*, who is a member of a distant future generation in the possible future world where the Depletion Policy has been adopted by some predecessor generation, and who has difficulty in breathing clean air due to air pollution caused in part by climatic change.⁶⁵

According to the appeal to specific rights and interests, Grant's *prima facie* specific right of access to an important life-sustaining resource (i.e. clean air) appears to have been violated as a result of the GHG emissions of previous generations.

⁶⁴ As suggested by Temkin, 'Harmful Goods, Harmless Bads', pp. 295-98.

⁶⁵ For the IPCC's research on the connection between climate change and air pollution, see McMichael et al, *Human Health and Climate Change*, pp.43-70.

Suppose that had these previous generations adopted more conservationist policies on GHG emissions, Grant's difficulties in this regard would have been avoided. Applied to this case, the appeal to specific rights suggests that Grant's *prima facie* right to breathe clean air has been violated by the negligent actions of his ancestors, despite the fact that the actions which led to this right being violated rendered Grant, on balance, no worse off. If conservationist policies had been adopted, for example, Grant and his contemporaries would not have been born with specific rights to resources which could never have been fulfilled and thus, in this limited sense, Grant and his contemporaries would have been better off *not being born*: if they had never been born, they would not have been in the possession of interests which would necessarily be thwarted or violated.

Unfortunately, even if we follow Woodward and Raz in holding that people possess fairly specific interests which ought to be respected by others, and which it is possible to violate without rendering them worse off on balance, this does not seem to provide a full response to the Retroactive Right Waiving Objection. Suppose we adopt the perspective of the potential recipient of some specific right. Parfit suggests that the main defect in a rights-based objection to Depletion would be that we could expect the Depletion People to be grateful that they had been born and that as a result they would waive any rights that would be violated by this policy.⁶⁶ But why, it might be asked, should this objection not also be directed towards the notion of specific-rights? So long as the Depletion People lead lives which are worth living, and they do not regret their existence, we might assume that they would waive *any* rights which they

⁶⁶See Parfit, *Reasons and Persons*, p.364; and Glover, 'Future People, Disability and Screening', pp.129-31.

might possess which require us not to choose the Depletion Policy on their behalf. That is, even if we suppose that people possess interests and rights which are not reducible to their broader, all things considered, interests one might expect any future person to waive *any* specific-rights they possess whose fulfilment is not consistent with their ever being born.

4.4 Responses to the Retroactive Right-Waiving Objection

The question arises: are there any considerations which cast some doubt on whether the Depletion People would, in actuality, wish to waive either their specific or general rights not to have been born with interests which could not possibly be fulfilled? I think there are, and I consider some of these below.

The Retroactive Right-Waiving Objection rests on an analogy between the way in which agents typically waive certain rights which they do not regret being violated in *intragenerational* contexts, and the way in which future agents could be expected to waive certain rights that they do not regret being violated by their ancestors. Parfit's example of the former sort of case is that of the person who wishes to marry and who does not regret his future wife violating his rights of privacy.⁶⁷ It might be argued, however, that there is a crucial difference between the cases of right-waiving which he takes to be analogous. This is that the person who gets married consents to their subsequent loss of privacy quite explicitly, and in advance of the marriage ceremony - or, more accurately, the start of the relationship - whereas there is no such explicit consent from the Depletion People available at the time of the policy choice. One

⁶⁷ Parfit, *Reasons and Persons*, p.364.

aspect of this disanalogy is that, as Parfit concedes, we cannot be certain that future persons who are brought into the world with rights that are necessarily violated will waive these rights in actuality. However, the disanalogy also renders problematic the whole notion of retroactive right-waiving when the putative right-waiver does not yet exist.

There are, for example, formidable problems associated with the idea of retroactive right-waiving in cases where future persons lead lives of very poor quality, but where it is uncertain whether they lead lives which are on the whole worth living or not. The examples offered by Parfit are perhaps clear cut in this regard - he stipulates that the characters in his examples are not so miserable that they would ever consider their lives not to be worth living. However, in reality there will be many cases in which people are born with medical conditions which make their lives doubtfully, if not certainly not, worth living - and it is likely that global environmental problems such as climate change will bring about an increase in the numbers of such cases (for example, through the impacts of global warming on pre-natal malarial infection, poor air quality and so forth). The question raised by all this, then, is 'how might we establish whether the people who will belong to future generations blighted by climate change would *in fact* wish waive either their specific or general rights?'

I have argued above that there are problems raised for Parfit's analysis by the fact that retrospective consent is much more uncertain than actual consent. Consider once more the case of Grant. Suppose it was suggested that it does not matter whether or not Grant (and his contemporaries) would in practice wish to waive their rights, but rather that it be *unreasonable* or *irrational* of them not to do so. Is it really the case,

though, that it is unreasonable, or irrational, for the Depletion People to regret the adoption of the Depletion Policy? There seem to be at least three ways in which we might defend the view that it is not.

Firstly, as Woodward claims, it seems at least reasonable for a person to argue that it would have been better if he had not existed, if (i) they fall short of some standard of perfection and (ii) they believe strongly that it is a terrible thing to live and fall short of this standard.⁶⁸ It might be the case, for example, that Grant comes to regret bitterly the fact that his reduced physical capabilities prevent him from perfecting his pursuit of some physical activity (such as running or walking) even though he accepts that his life is well worth living on the whole.

Secondly, Parfit assumes that if it is known with some degree of certainty that a person will not regret, and will offer their retrospective consent to, an act's performance then this act does not violate any of this person's rights. However, this claim seems questionable to say the least. Thus, many people would think it wrong to enslave or to torture another person even if this person gave their consent in advance of the enslavement, and subsequently argued that he did not regret giving his consent in the first place.

Woodward, for example, observes that we commonly make a distinction between reasonable and unreasonable grounds on which a person might waive his rights, or express a lack of regret about his circumstances, and that we do not commonly think that an expression of consent which is based on faulty premises alters the way in which an act or state of affairs is evaluated from the ethical point of view. Consider

⁶⁸ Woodward, 'The Non-Identity Problem', p.823.

Woodward's example of 'lower caste members of a caste society [who] do not object to or regret being desperately poor or exploited because they are persuaded that this is required by the natural order of things.'⁶⁹ It seems implausible to suggest that the presence of consent in such circumstances entails that no injustice has been perpetrated on the members of the lower caste in this society. In a similar way, one might argue that it is implausible to suggest that the lack of regret that the Depletion People express towards the adoption of the Depletion Policy renders this policy ethically unobjectionable.

Thirdly, and most speculatively, Grant might argue that he regrets the adoption of the Depletion Policy because its adoption harms him in a way which does not reduce his well-being at all. The idea here is that there might be victim-involving acts which are not in fact well-being diminishing, but nevertheless *interest-violating*.

Consider the case of *Jim*, who entertains certain esoteric, and deeply held, religious beliefs which lead him to believe that if a photographer from a news agency takes his photo, then this will surely result in his soul being jeopardised. Some will think that the taking of Jim's photograph violates an ethically weighty interest of Jim's - and will thus harm or disadvantage him - even if Jim's life would not go worse if his photograph is taken. The harm we do to him by taking his photograph might, for example, be explained in terms of the fact that we rob him of his dignity by taking his photograph against his wishes, even though the act which does this does not reduce his well-being as such (it simply being untrue that a person's well-being can be reduced by their photograph being taken in the manner suggested). These people will

⁶⁹ Woodward, 'The Non-Identity Problem', p.823.

claim that Jim has an interest in his image not being produced in ways in which Jim *believes* will cause himself profound damage.⁷⁰

Consider, once more, the case of Grant. Perhaps being brought into the climate change affected world - as in the case of the photographed Jim - also harms Grant in a way that does not reduce his well-being. Because the presence of these harms are unconnected to Grant's overall well-being, they are not undermined by the presence of Non-Identity. Grant is harmed, here, even if his well-being is not reduced, on balance, by his coming into existence. It is this distinctive sort of harm which provides the basis for his regretting his existence, in the same way that Jim might regret his photograph being taken: he has been robbed of his dignity by the adoption of the Depletion Policy (he is forced to engage in a scramble for supplies of fresh air which should have been his birth-right), even though his well-being has not been diminished by this policy.

5 Conclusions: The Limitations of the Appeal to Specific Rights

Suppose we think that the Retroactive Right-Waiving Objection is at the very least not decisive, and that we grant that certain rights protect certain specific interests the fulfilment of which are not necessarily in their holders' overall interests. Serious limitations with this account remain. One of these relates to the fact that many of the goods which we are concerned to preserve for the sake of future persons are *public goods*.

⁷⁰ The case of Jim was suggested to me in a different context by Andrew Williams. The context was a discussion of the possibility that people might be harmed *posthumously* both in a way that does, and in a way which does not, diminish their *well-being*.

Public goods, such as clean air, are goods whose benefits are distributed throughout a society such that they are 'not subject to voluntary control by anyone other than each potential beneficiary controlling his share of the benefits.'⁷¹ However, on the interest-theory of rights, and it is worth remembering that the notion of specific-rights depends upon this theory, it is not readily apparent why individuals possess rights to public goods such as clean air. This is because the interest-theory does not generate rights to *all* interests which individuals possess, but rather only those which are sufficiently important to hold others under a duty to protect those interests. But in the case of public goods it seems unlikely that the interest of a single individual in having access to these goods is important, or weighty, enough to entail that all other persons lie under a duty to respect these interests.

Raz, for example, is sceptical about the idea of an individual possessing a right to a public good, and suggests that separate individuals' interests in such goods are best thought of as grounding *collective* rights.⁷² So it seems that the idea of the specific rights (or interests) of *individuals* will need to be supplemented by some appeal to the specific rights (or interests) of *collectivities* if we are to make sense of the idea of rights to environmental public goods such as clean air - and I think that this alone suggests that the appeal to specific rights cannot provide a *full* solution to the Non-Identity Problem (though it might play a part in one). I turn to the notion of collective, or group, rights in the next chapter.

⁷¹ Raz, *The Morality of Freedom*, p. 198.

⁷² Raz, *The Morality of Freedom*, pp.186-90. For discussion, see Denise Reaume 'Individuals, Groups and Rights to Public Goods', *University of Toronto Law Journal*, 38, 1988, pp.2ff.

Chapter 6: Group Rights and The Non-Identity Problem

1. Introduction

In the previous chapter, it was argued that familiar *identity-dependent* theories of ethics are prone to peculiarly troubling problems of Non-Identity, and that one ingenious attempt to solve these problems is flawed. In this chapter, I will be examining the possibility of developing a revised identity-dependent objection to depletionist environmental policies in terms of the *rights, interests, or ethical value* of certain human groups. As a new piece of terminology, I distinguish between two quite different articulations of identity-dependence, namely, the *narrow* and the *wide*. Narrow identity-dependent (or *person-affecting*) views identify particular persons as being the only genuine bearers of ethical value, while wide identity-dependent (or *group-centred*) views identify both individual and collective entities as bearers of ethical status or value.

The main advantage of a group-centred approach, it will be argued, is that by virtue of the fact that the coming into existence of many human groups is less dependent on events and actions which pre-date their origin, this approach will not be as prone to considerations of Non-Identity in social policy instances of the Non-Identity as its person-affecting rival. If we hold that groups can be the *bona fide* possessors of rights, interests or ultimate value, it seems that we do not need to abandon the terrain of identity-dependent ethics in order to provide some objection to choosing depletion.

A crucial part of the spelling out of the notion of group-centredness will turn on a spelling out of the ideas of group-rights and group-value, and how a contemporary liberal theories - which are paradigmatic examples of identity-dependent theories - are compatible with these ideas. In explaining the idea of group-centredness, I attempt to draw parallels between the idea of grounding at least part of our theory of intergenerational ethics in the idea of group-interests and the expanding literature on liberalism, and the rights of minority cultures. While I offer a limited defence of the ideas of group-rights and group-value, and their partial solution of the Non-Identity Problem, I also note some formidable problems that face the group-centred view.

The chapter proceeds with a discussion of three possible formulations of the group affecting view (two grounded in the idea of group-*rights*, and the other in group-*value*) and then go on to apply these views to a case of Non-Identity constructed in the light of recent work on climate change.

2. Liberalism and Group-Rights

Contemporary liberalism faces at least three important challenges which have only been recently expressed in any detail in philosophical circles. The first, the problem of intergenerational ethics, needs little introduction. The second, the claim that liberal theory, and in particular its overwhelming focus on the language of individual rights, reflects an impoverished view of the importance of group or cultural membership to the lives of individuals, has been discussed by a number of liberal and

'communitarian' writers.¹ Communitarian writers, notably Charles Taylor, Michael Sandel, and Alisdair MacIntyre, argue that liberalism is not sufficiently sensitive to the way in which group membership is central to the shaping, and flourishing, of human lives; and indeed, that this is at least partly reflected by - as well as exacerbated by - liberalism's characteristic focus on the *rights* and *interests* of individual persons.² The third, the claim that liberal theory cannot accommodate the demands of certain indigenous and other minority groups' for collective self-determination, has also a fairly recent history.³ Here, various indigenous groups - and theorists who take up their case - have complained that liberalism, and the international conventions on *individual* human rights which are often regarded as its greatest triumph, cannot make sense of their *collective* claims for secession or self-determination.

The criticism of liberalism which the second and third of these challenges raise has been summed up usefully by Buchanan as a challenge to the perceived liberal 'preoccupation with individual rights and an assumption that the liberal framework of individual rights can accommodate the legitimate interests of all groups.'⁴ Buchanan goes on to argue that one reason for liberals to consider the notion of *group-rights* is

¹ The communitarian challenge to liberalism is reviewed by Will Kymlicka in *Liberalism, Community and Culture*, Oxford, Oxford University Press, 1989, pp.47-99; and S. Mulhall and A. Swift, *Liberals and Communitarians*, Oxford, Blackwell, 1992.

² See Taylor, *Sources of the Self*, Cambridge, Cambridge University Press, 1990; Sandel, *Liberalism and the Limits of Justice*, Cambridge, Cambridge University Press, 1982; and MacIntyre, *After Virtue*, London, Duckworth, 1981.

³ See Kymlicka, *Liberalism, Community and Culture*, pp.135ff; and *Multicultural Citizenship*, Oxford, Oxford University Press, 1995, pp.49ff. See also Allen Buchanan, *Secession*, Oxford, Westview Press, 1991, pp.4ff.

⁴ Buchanan, 'Liberalism and Group Rights', in J.L. Coleman and A. Buchanan, eds., *In Harm's Way: Essays in Honour of Joel Feinberg*, Cambridge, Cambridge University Press, 1994, p.1.

that they appear to offer a valuable tool with which to deal more adequately with these two challenges.⁵

In a similar vein, I want to argue in this chapter that the first of the problems I identified above, and with which this thesis is primarily concerned, might also be more soluble from a liberal (and identity-dependent) perspective if the notion of group-rights is taken seriously. In short, this is because they might provide the basis of a solution to the Non-Identity Problem in an important (if limited) range of cases.

Perhaps the most obvious place to begin an analysis of recent work on group-rights is the debate concerning the rights of minority cultures. There are two mutually incompatible - and exhaustive - articulations of group-rights which are appealed to in this debate. Correspondingly, there are two ways in which liberalism might reconcile itself with the idea of group-rights. The first of these takes the rights of groups, such as minority cultures, to be merely the conglomeration of the rights of its members, for example to have adequate access to their native language in public affairs. Here the group itself has no moral or ethical status above and beyond that possessed by its members, and thus it has no rights itself beyond those shared by all of its members. In other words, the group's rights are merely the aggregated claims of its members possessed *severally*. I call this the *individualist* view of group-rights, the most distinguished exponents of which are Joseph Raz and Will Kymlicka.

The second articulation of group-rights regards the *moral* rights of groups in a similar way as the *legal* rights of certain corporations. These rights are not reducible to the rights shared by its members. The group is, rather, viewed as bearing moral or ethical

⁵ See Allen Buchanan, 'Liberalism and Group Rights', p.2. See also *Secession*, pp.74ff.

status, and thus as a bearer of rights and interests, quite independently of its individual members. I call this the *collectivist* view of group-rights, one proponent of which is Vernon Van Dyke.

In the following, I briefly review Raz's, Kymlicka's and Van Dyke's views. The distinction between the two positions they represent is important, I will argue, because while the collectivist view appears more likely to be of useful application in cases of Non-Identity, such as Depletion-Conservation, the individualist view of group-rights is much less controversial and appears more readily reconcilable with liberal, and other identity-dependent, theories of ethics.

3. Raz, Kymlicka, and the Individualist View

Recall that according to Raz's general account of rights, a person, *X*, 'has a right if and only if *X* can have rights, and, other things being equal, an aspect of *X*'s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty.'⁶ The key idea here is the extent to which a *group* might be thought of as possessing some interest which is important - or significant - enough to create a duty on the part of another group or person. Raz requires three conditions to be met in order for this to happen, that is, a group will possess a right whenever some joint interest of its members satisfies the following conditions. First, it must be important

⁶ Raz, *The Morality of Freedom*, p.166. Compare with Dworkin's view that 'an individual has a right to some opportunity or resource or liberty if it counts in favour of a political decision that the decision is likely to advance or protect the state of affairs in which he enjoys the right, even when no other political aim is served and some political aim is disserved thereby, and counts against that decision that it will retard or endanger that state of affairs, even when some other political aim is thereby served' (*Taking Rights Seriously*, London, Duckworth, 1977, p.91).

enough to justify the creation of duties upon others. Second, the interest must concern the members' interests in securing access to an *inherent* public good.⁷ Third, that the interest of each of the group's members to this public good, taken one by one, is insufficiently strong for it to justify the creation of duties on the part of others.⁸

In Raz's view, it is not the way in which a group possesses the quality of being an independent, and ethically important, entity in its own right which gives rise to it being the recipient of rights but rather the feature that the individuals which comprise it possess interests which combine in order to be sufficiently weighty to ground duties on the part of others. For Raz, a group as thinly defined as a set of individuals with one common interest on a shared matter (e.g. the provision of public transport) can possess group-rights (e.g. to a minimum level of public transport) if their combined interests are weighty enough. Raz is clearly proposing an *individualist* view of group-rights in this sense. He argues that 'collective or group-rights represent the cumulative interests of many individuals who are members of the relevant groups. It follows that there is nothing essentially non-aggregative about rights.'⁹

Raz's account of group-rights has attracted a number of criticisms, most notably from Denise Reaume.¹⁰ Reaume modifies Raz's view somewhat to take account of the existence of 'participatory goods.' These are goods which, in contrast to public goods, cannot be enjoyed individually. An example of a participatory good might be

⁷ The distribution of benefits of inherent public goods are 'not subject to voluntary control by anyone other than each potential beneficiary controlling his share of the benefits' and this is the case irrespective of technological factors (see *The Morality of Freedom*, pp.198-9).

⁸ Raz, *The Morality of Freedom*, p.208.

⁹ Raz, *The Morality of Freedom*, p.187.

¹⁰ Denise Reaume, 'Individuals, Groups, and Rights to Public Goods', *University of Toronto Law Review*, 38, 1988, pp.1ff. See also Jeremy Waldron, 'Can Communal Goods be Human Rights?', *Archive Europeennes De Sociologie*, 27, 1987, pp.296ff.

friendship. Here, the good of friendship can neither be produced individually nor is it valuable outside of the context of the joint involvement of those who participate in it. As Reaume observes, 'the publicity of production itself is part of what is valued - the good is the participation.'¹¹ Reaume holds that living in a flourishing cultural environment is one of these goods, and it is the way in which this good is a *participatory*, rather than an *inherent public*, good which lies at the heart of why it can only give rise to a *group* rather than an *individual* right: for only groups can have rights to participatory goods, to what can only be enjoyed collectively.

Although Reaume embraces many aspects of Raz's general theory of rights, the true extent of the difference between her view and Raz's on group-rights is unclear. Reaume appears to hold that rights to participatory goods are *group-rights* in a deeper sense than the group-rights to inherent public goods. One reason for thinking this lies in Reaume's claim that, in the case of participatory goods, 'the individual has no interest as an individual in these goods' and further that a group's interest in securing a participatory good 'cannot be reduced to a set of individualised interests.'¹²

But does this imply that the individual participants in a practice which produces a participatory good - e.g. friends enjoying the fruits of friendship - do not stand to lose or gain, *as individuals*, if the friendship is marred or enhanced by some event or other? As Hartney argues, there might come a point where 'it may cease to be in the interest of one of the [friends] to belong to it, while the interest of the others remains unaffected: in that sense, the interest of one member is detachable from that of the

¹¹ Reaume, 'Individuals, Groups, and Rights to Public Goods', p.10.

¹² Reaume, 'Individuals, Groups, and Rights to Public Goods', pp.11n, 24

others.’¹³ This suggests that, at best, Reaume has offered a tweaking of Raz’s theory of group-rights - for at the fundamental level, both appear to share a commitment to an individualist account according to which the interests of a group as such cannot be seen as existing independently of the interests of its members.¹⁴

The core of Kymlicka’s defence of group-rights has several steps.¹⁵ First is the idea that individuals must have access to some structure in order for them to be provided with the conditions necessary for autonomous choice among an adequate range of options, and the manner in which this is an important idea for liberals. Second is the idea that *only* membership of a flourishing and secure cultural group provides such a structure (Kymlicka develops this point by describing the cultural structure as being ‘*the context of choice*’).¹⁶ Third, many cultural groups are vulnerable and as a result can only flourish if they are allocated certain group-rights which are not relevant in respect of other, more robust, groups; possessing these rights may in certain cases be a necessary condition of a group, or culture, preserving its distinctive culture and way

¹³ See Hartney, ‘Some Confusions Concerning Collective Rights’, in Kymlicka, *The Rights of Minority Cultures*, Oxford, Oxford University Press, 1996, p.209.

¹⁴ Raz’s view is discussed, and endorsed, by Hartney in ‘Some Confusions Concerning Collective Rights’, pp.208-9.

¹⁵ Kymlicka’s view has a number of close cousins, most prominent of which is the account defended by Allen Buchanan. See Buchanan, *Secession*, pp.52ff and pp.74ff; and ‘Liberalism and Group Rights’, pp.7ff.

¹⁶ Kymlicka, *Liberalism, Community, and Culture*, p.166. Buchanan notes that group membership goes beyond just providing a context or structure in which its members may pursue goals which they identify with, it also provides a valuable role in determining the *content* of peoples’ projects, plans and goals. He observes that,

participation in community, for many people, at least, is a fundamental intrinsic good, not merely a structural condition for the successful pursuit of other goods or a means of acquiring them. . . Nothing in liberalism or its understanding of human good precludes it from acknowledging this basic truth (*Secession*, p.54; see also Buchanan, ‘Assessing the Communitarian Critique of Liberalism’, *Ethics*, 99, 4, July 1989, pp.867ff).

of life which its members identify with.¹⁷ Fourth, and finally, any liberal theory which is worth its salt will accommodate certain group-rights (such as those considered above), at least with respect to those groups which have been especially vulnerable to historical injustices, in order to protect the context for autonomous choice.

It is the second step in Kymlicka's argument which has received the most attention from critics and defenders alike, namely, that group-membership is valuable for individuals in virtue of the way that this provides individuals with a context in which to exercise their autonomy. The community itself, here, has no ultimate importance.

Kymlicka observes argues that

liberals should be concerned with the fate of cultural structures, not because they have some moral status of their own, but because it's only through having a rich and secure culture that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value.¹⁸

That cultural or group membership provides an important context for human choice, on Kymlicka's view, does not in itself entail that the liberal ought to embrace group-rights in order to protect *particular* groups from disintegrating. One might think that as long as every person considered one by one has access to some cultural structure, the liberal need not be committed to protecting any *particular* community. As

¹⁷ Buchanan adds the important point that, although the liberal will ground group-rights in the thought that their protection is valuable for individual human beings, this does not commit the liberal to the view that 'a member of a cultural group or community values the culture chiefly or even in part as something that is instrumentally good for himself, nor that his interest in the goods of cultural membership is egoistic.' A liberal position, he argues, is perfectly consistent with the thought that participation in a culture constitutes an intrinsically valuable good. See Buchanan, *Secession*, pp.79ff.

¹⁸ Kymlicka, *Liberalism, Community, and Culture*, p.65. Kymlicka's argument is re-stated in *Multicultural Citizenship*, pp.80ff.

Kymlicka sets up the problem, ‘why not let minority cultural communities disintegrate, and assist those who suffer that misfortune to assimilate to another culture?’¹⁹ Kymlicka’s response to this question is to claim that the extent to which individuals (in particular, members of ethnic minorities) are essentially bound to their own cultures prevents this approach even being an option for the liberal.²⁰

So cultural membership is not only a valuable source of options for members, but also the source of individuals’ personal agency, integrity and development.²¹ It also provides the basis for individuals’ self-respect. This, for Kymlicka, is essentially the good point of the largely wrong-headed communitarian challenge to liberalism mounted by Taylor and others, but it is disconnected from the claim that communities are valuable over and above the way in which they are valuable for their individual members. Thus Kymlicka attempts to introduce group-rights into a liberal position while rejecting the idea of, for want of a better phrase, *value-collectivism*.

4. Van Dyke and Collectivist Rights

If individualist group-rights are grounded in the claim that the objects of group-rights - e.g. national self-determination - are essential to the continued well-being of that group’s individual members, *collectivist* rights are grounded in the notion of respect

¹⁹ Kymlicka, *Liberalism, Community, and Culture*, p.173.

²⁰ Kymlicka claims that,

We can’t just transplant people from one culture to another, even if we provide the opportunity to learn the other language and culture. Someone’s upbringing isn’t something that can just be erased; it is, and will remain, a constitutive part of who that person is. Cultural membership affects our very sense of personal identity and capacity (*Liberalism, Community, and Culture*, p.175).

²¹ Kymlicka, *Liberalism, Community, and Culture*, p.176

for groups as entities 'with a distinct identity and life of its own which others must recognise and respect.'²² Consider the paradigm of a group which bears rights in international law, namely the *nation-state*. Nation-states are often recognised as being singular ethical, as well as legal, entities - possessing a separate identity and rights of self-determination. It is this clear, or perhaps not so clear, identity which gives rise to the demands of many nations to be seen as moral entities in their own right, and decidedly not the idea that the members of these communities have interests which add up with sufficient weight to create a right of self-determination.²³ The idea behind the collectivist view is that this sort of reasoning can be extended to the case of sub-national groups as well.

There are obviously several problems here worth discussing. One is the problem of vagueness of identity. The identities of statal or sub-statal groups do not appear to be as easily defined as those of their individual members.²⁴ This makes it difficult to establish the point of origin, as well as extinction, of any given nation (a point which will have important ramifications when we come to look at the Non-Identity Problem). It also suggests that one of the formal requirements of rights-allocation - that the bearer is identifiable or specifiable in some reasonably clear way, even if its

²² See Jones, *Rights*, pp.184-5.

²³ Although this view is defended by Margalit and Raz, 'National Self-Determination', in Raz, *Ethics in the Public Domain*, pp.125ff.

²⁴ Unless we hold Parfit's 'reductionist' view of personal identity, according to which the conditions of existence of particular persons *are* more or less as weak as those of nations. See *Reasons and Persons*, pp. 211ff. Compare with Hume's observation that,

I cannot compare the soul more properly than to anything than to a republic or commonwealth, in which the several members are united by the reciprocal ties of government and subordination, and give rise to other persons, who propagate the same republic in the incessant changes of its parts. (David Hume, *A Treatise of Human Nature*, Oxford, Clarendon Press, 1968, Part IV, Section VI, p.261).

edges are somewhat blurred - will not be met by the sorts of groups which the collectivist view of group-rights would be paradigmatically concerned with. A different problem associated with group-identity is that any right-bearing group ought perhaps be robust at least to the point where it is not better viewed as merely the part of a wider entity, or is merely an amalgam of smaller entities which are best viewed as wholes in their own right.²⁵ It seems that, as compared with the relatively straightforward individualist theory, the collectivist theory is more prone to problems arising from the untidiness of group-identity and intra-group boundaries.

Quite different problems concern the *directionality* of the rights that the collectivist view defines. Here the collectivist conception of group-rights is prone to the objection that the rights it defines will in some cases conflict with the rights of its individual members. Such group-individual conflicts are not possible under the individualist view as on this view a person simply ceases to be a member of a group if his interests conflict with it. This is because the group is merely an aggregation of individuals who share a similar interest in some public (or participatory) good.

There are at least two ways in which the collectivist view might entail group-individual conflicts. First, in ascribing rights or ethical status to a certain national minority, we also deny any smaller groupings which exist within that minority a similar status. By ascribing the right of self-determination to the British, for example, it seems that we also deny a similar (or at least a similarly robust) right to the Welsh. This denial, quite understandably, is often equated (by the smaller grouping) to a diminishing of their moral or ethical status. Second, because collectivist group-rights

²⁵ See Jones, 'Group Rights', p.15.

are possessed by a nation or ethnic group itself, it appears that the group would in certain situations be justified in restricting the autonomy of its members (say by outlawing certain practices or by making others compulsory) if this were to strengthen the group's ability to guarantee that right's fulfilment in the face of either internal or external pressures. As an example of this development, one might think of the way in which certain cultures are resistant to changes in the way women are treated on the grounds that they, as they possess a right to self-determination, stand more chance of surviving if certain individual rights and freedoms are restricted.

The idea that a group in certain cases will have rights which are held, not against other groups, but against its own members is usually referred to in the literature as the problem of 'internally-directed rights' or 'internal restrictions.'²⁶ The problem that internal restrictions pose for liberals is that they appear to endanger traditional liberal values of toleration and individual autonomy. Kymlicka, for example, adopting different terminology to that suggested here, distinguishes between 'group-rights' (which correspond, to all intents and purposes, to the collectivist rights discussed above) and 'special rights' (which are individualist group-rights). He then goes on to argue that only 'special rights', which are by definition claimed only against others outside the group, are compatible with a commitment to liberalism, and that 'group-

²⁶ See, for example, Waldron, 'Can Communal Goods be Human Rights?', pp.317ff; Kymlicka, *Multicultural Citizenship*, pp.35ff; and Jones, *Rights*, pp.186-7. Jones sums up the worry well when he writes, on page 186, that

the stress upon the identity of a group as a bearer of rights may become so great that its individual members are effectively denied any separate identity or purpose. They may become like the 'members' of a human body which can exist and function only as parts of a single organism; they may cease to have any claim to exist or to function independently of the group (see also Dworkin, *Taking Rights Seriously*, pp.194ff).

rights' generate at least some claims against their own members and are both *illiberal* and *implausible*.²⁷

There are at least two ways in which a proponent of the collectivist view might respond to Kymlicka's claims. One would be to deny that 'internal restrictions' are incompatible with liberalism. I put this to one side. The second would be to deny that the collectivist view *necessarily* entails that the rights it ascribes to groups will be wielded against their members.²⁸ The basis for this denial would be the thought that the distinction between *externally* and *internally* directed rights cuts across the distinction between *individualist* and *collectivist* theories of group-rights. There appears, for example, no insoluble problem associated with arguing for a collectivist conception of group-rights which only sanctions groups having rights against the outside world (in particular, other groups).

In the following, therefore, I assume that this view is the one which any plausible theory of intergenerational collectivist group-rights will endorse. It is 'external protections' which are crucial in explaining objections to acts of intergenerational injustice, such as excessive GHG emissions. Here the relevant group (some future community blighted by global warming or sea-level rises) has a right against a former individual or group which did the damage - not its own contemporaneous members.

In contrast to Kymlicka, Van Dyke argues that the tension between liberalism and the growing importance of collective entities to debates about multiculturalism and the politics of recognition can only be resolved by

²⁷ See Kymlicka, *Multicultural Citizenship*, Chapter 3, pp.34-48.

²⁸ See Jones, 'Group Rights', p.19.

recognising that certain kinds of collective entities exist, just as individuals do - perhaps not tangibly but not transcendentally either; that these collective entities have moral rights that are distinct from the rights of individual members; and that the frequent cases of conflict between the rights of individuals and the rights of collectivities, and between the rights of different collective entities, must be handled through a balancing process in which judgements are made about the relative urgency and importance of the various claims.²⁹

Like Raz and Kymlicka, Van Dyke endorses an interest-based theory of rights according to which rights serve so as to protect particularly important human interests and needs.³⁰ However, unlike these writers he goes beyond the individualist view of group-rights, according to which group-rights are merely 'a kind of shorthand way of referring to the rights of the members.'³¹ Rather, the conception he proposes is that of the group 'as a collective entity, a unity, a whole, analogous to a corporation.'³²

Van Dyke notes that in legal circles both of these conceptions - the individualist and the collectivist - are quite commonly invoked. His view is that, in the ethical realm, and in particular in the light of pressing issues of multiculturalism and discrimination, it is necessary to incorporate the view that certain national, sub-national, or ethnic

²⁹ Vernon Van Dyke, 'Collective Entities and Moral Rights: Problems in Liberal-Democratic Thought', *The Journal of Politics*, 44, 1982, p.22.

³⁰ Van Dyke, 'Collective Entities and Moral Rights', p.23.

³¹ Van Dyke, 'Equal Treatment: the Individual and the Group', in his *Human Rights, Ethnicity, and Discrimination*, Westport: Connecticut, Greenwood, 1985, p.15

³² Van Dyke, 'Equal Treatment: the Individual and the Group', p.15.

groups are ethically important entities in their own right and possess collective rights above and beyond those possessed by their individual members.

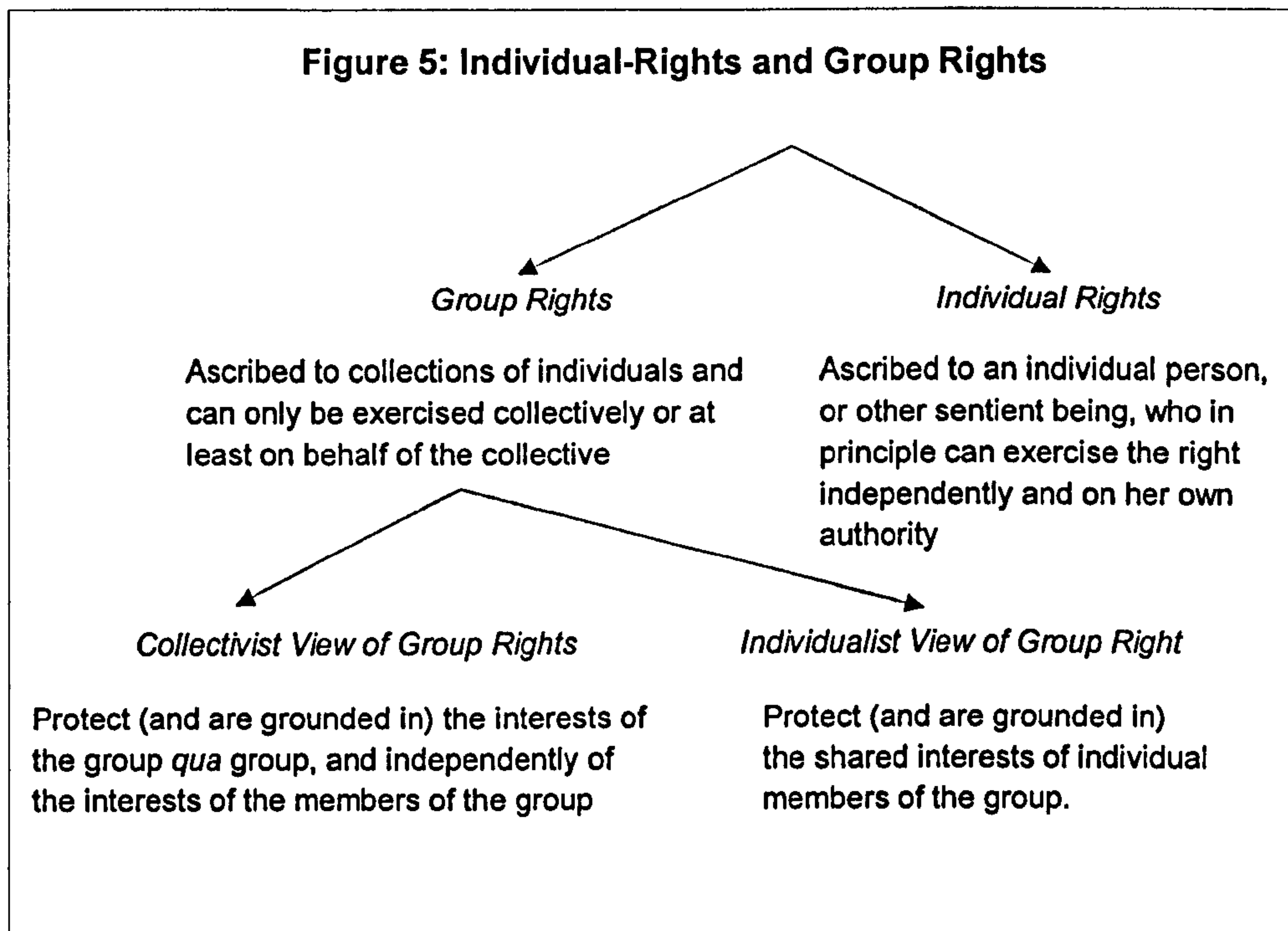
Van Dyke provides eight standards for differentiating entities which can be regarded as the genuine possessors of rights from those which cannot. Here the strength of any given group's rights-claims will vary in proportion to: (1) its desire to preserve itself; (2) the reasonableness of its chance to preserve itself; (3) the extent it possesses clear criteria of membership; (4) the significance it has to its members; (5) the importance of the rights it would be afforded; (6) its ability to act and assume responsibilities; (7) the extent to which it is already treated as a group; and (8) the extent to which the rights the group would wield are compatible with a commitment to an abstract understanding of equality, where those affected by the group wielding what rights it has are treated with equal concern and respect.³³

Van Dyke claims that these eight standards are not to be seen as being a list of necessary, or jointly sufficient, conditions for a group to possess rights, but rather 'permit varying degrees of decisiveness in judging whether a group is entitled to status and rights.'³⁴ He notes that taken together they will 'not suggest any great proliferation of the kinds of groups to be recognised', and more importantly that interest groups and social classes are particularly unlikely to qualify. The extent to which other groupings, such as *generations*, might meet these conditions is a further source of interest which is not addressed by Van Dyke.

³³ Van Dyke, 'Collective Entities and Moral Rights', pp.31-33.

³⁴ Van Dyke, 'Collective Entities and Moral Rights', p.33.

The individualist and collectivist view having both been outlined, a diagrammatic representation of the essential differences between the individualist and collectivist understandings of groups is provided in the form of Figure 5.



5. Taylor and the Value-Collectivist View

The distinction between the collectivist and individualist view of group-rights cuts across the issue of whether we hold communities to possess value *as such*. One can, for example, be an individualist about group-rights (such as Kymlicka or Raz) and still hold that communities - in virtue of being the context for autonomous action - are *intrinsically* valuable. There are, in fact, several ways in which an entity might be valuable, a useful taxonomy being offered by Raz.³⁵

³⁵ See Raz, *The Morality Of Freedom*, pp.177-8.

According to Raz, something is of *ultimate* value if its value does not derive from the way it contributes to something else; something is of *instrumental* value if it 'derives its value from the value of the consequences it is likely to have, or from the value of the consequences it can be used to produce'; and something is *intrinsically* valuable if it has value independent of its instrumental value to the extent this lies 'in its being a constitutive part of a valuable form of life.'³⁶ As such, that something is intrinsically valuable is a necessary but not a sufficient condition of that thing being of ultimate value.³⁷ Because there are at least these three senses of what it is to be valuable, the claim that (certain) groups are valuable is ambiguous and needs further elaboration.

Kymlicka and Raz quite clearly hold that cultural groups possess *intrinsic* value in Raz's sense of the term. Individual human beings, on the other hand, are of *ultimate* value - indeed individuals are the only entities which 'ultimately' valuable. In other words, everything else that has non-ultimate (i.e. intrinsic or instrumental value) must derive this from the way it relates, and contributes, to the well-being of individual human beings.³⁸ The value of cultural groups is intrinsic, rather than instrumental for Raz, because of the way in which membership provides one set of logically necessary

³⁶ Raz, *The Morality Of Freedom*, p.178.

³⁷ Raz gives the following example to explain this thought (*The Morality Of Freedom*, pp.177-8). Some people lead a richer and better life because they own, and have a deep attachment to, a family pet. The value of the relationship between the person and their pet, here, is apparently of intrinsic value: it possesses value in virtue of 'its being a constitutive part of a valuable form of life', as Raz puts it. As a result, the existence of the pet itself is intrinsically valuable as well, for its existence is a necessary condition of the relationship. However, the existence of the pet cannot be ultimately valuable, for any value the pet has ultimately comes from the way in which it contributes to its owner's, or another person's, well-being.

³⁸ Raz calls this the 'humanistic principle' (*The Morality Of Freedom*, p.194). A similar view appears to be held by Ronald Dworkin. Dworkin endorses what he calls the 'abstract theory of overall ethical value', according to which only individual persons - and the lives they lead - are of ultimate moral value. See *Why We Are All Liberals*, typescript, New York University School of Law, 1995, p.29.

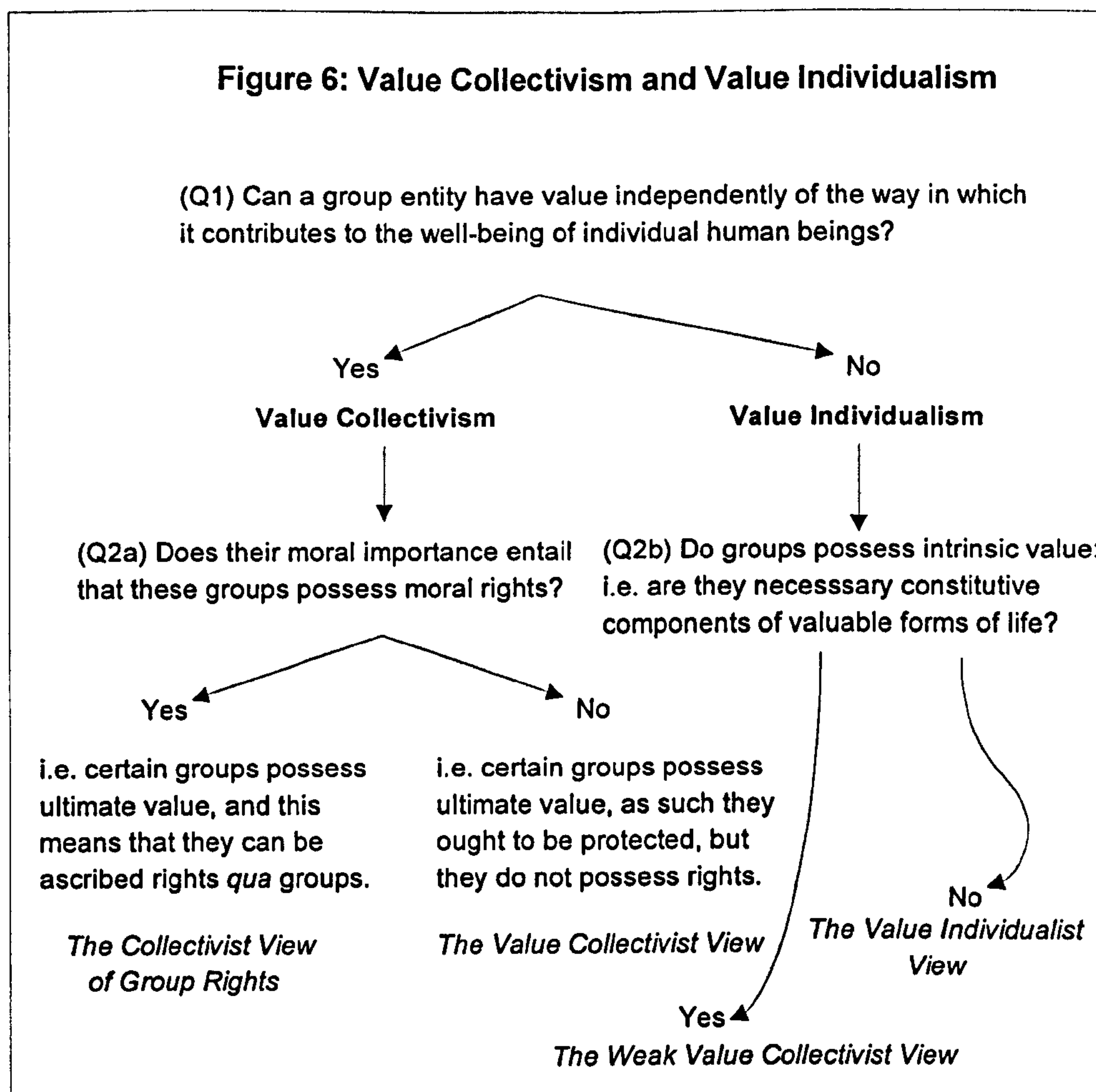
conditions for individuals to enjoy cultural attachments and the options they give rise to. Because both Kymlicka and Raz hold that groups are intrinsically, but not ultimately, valuable they also hold that groups as such cannot be the bearers of rights in an analogous way to individuals. Raz writes, 'It seems plausible to suppose that. . . only those whose well-being is of ultimate value can have rights.'³⁹ In this sense we might call Kymlicka and Raz *value individualists*, as they hold that collective entities derive their value from the way they contribute to the lives of individual persons.

Taylor, however, proposes that certain cultural groups ought to be protected in virtue of the fact that they are *ultimately* valuable - and that it would be regrettable if they were not so protected. In this sense we might call Taylor and others who hold similar views about group-value, *value-collectivists*. According to value-collectivism, collective entities can possess ultimate value, namely, value which is independent of the way it contributes to the lives of individual persons.

Taylor refrains from putting his argument in terms of the notion of *group-rights* at all, a notion which he appears to regard with suspicion. He holds (in contrast to the individualist view) that certain cultural groups are of ultimate importance in their own right and (in contrast to both the individualist and collectivist views) that the idea of group-rights is incapable of articulating this fully.⁴⁰ Figure 6 (on the next page) explores the relation between value individualist and value-collectivist views.

³⁹ Raz, *The Morality Of Freedom*, p.178.

⁴⁰ It is worth comparing Taylor's claim with Dworkin's observation that 'We think it a shame when any distinctive form of human culture, especially a complex and interesting one, dies or languishes. . . this cannot be fully explained merely in terms of the contribution that cultural variety makes to the excitement of our life' (Dworkin, *Life's Dominion*, London, HarperCollins, 1993, p.72).



6. Value-collectivism

There are several considerations which appear to support the view that groups possess ultimate value. Some of the most interesting of these reflect the real life moral convictions and behaviour of people. Many people believe, for example, that the complete annihilation of cultures is bad over and above the fact that this destruction is often accompanied by the destruction of large numbers of its members taken one by one. Thus the destruction of entire peoples does not seem to be abhorrent only because this entails the murder of extremely large numbers of people. Rather people

often feel as bad about genocidal acts directed towards relatively small groups (such as the East Timorese) as they do about much larger groups (such as the Tutsies, Hutus, or European Jewry). Finally, the scope of international conventions which outlaw genocide do not regard the size of a nation, or cultural group, as relevant to the issue of whether the destruction of these groups *qua* groups is impermissible.

As Barry has argued, the idea behind the value-collectivist view is that

the destruction of cultures is a bad over and above the physical destruction of its bearers. . . destroying a large population is more serious than killing the same number of random individuals. And this in turn is another reason why remote possibilities of catastrophic accidents (e.g., in nuclear reactors) should be treated as especially grave threats, and not simply balances against the number of deaths from bronchitis or lung cancer that can be associated with use of fossil fuel as an alternative.⁴¹

Although Barry appears to be embracing value-collectivism here, one suspects he would fall short of proposing that the destruction of cultures is unjust in virtue of violating their rights *qua* cultures, as opposed to the view that this destruction is an impersonal bad (a kind of cosmic impertinence), but not one which is right-violating (or victim-creating) as such.

Taylor, on the other hand, seems to defend the view that cultural groups ought to be protected as entities in their own right, rather than for the sake of the autonomy or, more broadly, the *well-being* of the individuals who belong to it. Many of his remarks

⁴¹ Brian Barry, 'The Ethics of Resource Depletion', p.525.

concern the case of Quebec, and the debate concerning the measures necessary to protect and preserve the cultural traditions and structures of the Quebecois. It is worth quoting Taylor at length:

It is axiomatic for Quebec governments that the survival and flourishing of French culture in Quebec is a good. . . One could consider the French language, for instance, as a collective resource that individuals might want to make use of, and act for its preservation, just as one does for clean air or green spaces. But this can't capture the full thrust of policies designed for cultural survival. It is not just a matter of having the French language available for those who might choose it. . . it also involves making sure that there is a community of people here in the future that will want to avail itself of the opportunity to use the French language. Policies aimed at survival seek to create members of the community, for instance, in their assuring that future generations continue to identify as French-Speakers. There is no way that these policies could be seen as just providing a facility to already existing people.⁴²

One problem for Taylor's value-collectivist view flows from doubts concerning whether it can be bad for cultures to die out *as such* if their death does not result in any particular person's interests being harmed - as in the case where this death

⁴² Charles Taylor, 'The Politics of Recognition', in Amy Guttmann, ed., *Multiculturalism: Examining the Politics of Recognition*, Princeton: New Jersey, Princeton University Press, 1994, pp.58-9.

actually comes about as a result of the autonomous choices of the culture's individual members. Another comes from the doubt that seeking to impose a certain cultural environment on a later generation can be reconciled with the concern to maintain the conditions for autonomous choice for these later generations. Rather, as Appiah observes, liberals ought perhaps to foster cultural survival by creating cultural structures which their descendants will *want* to hold on to, rather than seeking to impose these structures on them.⁴³

In a similar vein, Habermas expresses scepticism about the idea of group-rights *per se*, in particular concerning the way in which they might be appealed to in order to justify the preservation of communities or groups across time. He remarks,

even if such group-rights could be granted in the democratic constitutional state, they would be not only unnecessary but questionable from a normative point of view. For in the last analysis the protection of forms of life and traditions in which identities are formed is supposed to serve the recognition of their members; it does not represent a kind of preservation of species by administrative means.⁴⁴

Habermas appears to be concerned, here, that the sort of arguments that are commonly used to justify protection of species of animals or plant life are unavailable as justifications for the protection of human communities, such as nations. Communities are worthy of their continued survival, Habermas thinks, only if they

⁴³ See K.A. Appiah, 'Identity, Authenticity, Survival: Multicultural Societies and Social Reproduction' in A. Guttman, ed., *Multiculturalism: Examining the Politics of Recognition*, pp.157-9.

⁴⁴ Habermas, 'Struggles for Recognition in the Democratic Constitutional State', p.130.

appeal to a wide enough range of support within the culture; support which is determined by the autonomous and reflective choices of members of the community, rather than being required by group-rights or other norms. To *guarantee* cultural survival by enshrining group-rights in a community's constitution would, Habermas continues,

necessarily rob the [group's] members of the very freedom to say yes or no that is necessary if they are to appropriate and preserve their cultural heritage. . . the only traditions and forms of life that can sustain themselves are those that bind their members while at the same time subjecting themselves to critical examination and leaving later generations the option of learning from other traditions or converting and setting out for other shores.⁴⁵

As such, Habermas appears to hold that having recourse to group-rights in order to protect cultures could be both *unwarranted* and *futile*. This is not to say that Habermas (and Appiah) could not subscribe to the view that cultural groups possess intrinsic value in Raz's sense (a thesis figure 6 describes as *weak value-collectivism*), but they would surely disown both (1) the collectivist group-rights view and (2) the view that certain groups possess ultimate value.⁴⁶

⁴⁵ Habermas, 'Struggles for Recognition in the Democratic Constitutional State', p.130.

⁴⁶ Habermas, as far as I am aware, does not discuss the issues of Non-Identity, or problems of intergenerational ethics in more general terms, in any of his recent writings - certainly not in his latest work *Between Facts and Norms* (Cambridge, Cambridge University Press, 1996). It is worth noting, though, that the critical normative principle he defends in this work, the *Discourse Principle*, would appear to be as equally prone to considerations of Non-Identity if applied to issues of intergenerational distribution as Scanlon's test of *reasonable rejection* (indeed they are strikingly similar principles). The Discourse Principle reads as follows: 'Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses' (*Between Facts and Norms*, p.107).

6.1 Group-Value and Societal Culture

Even if we put aside Habermas's quite radical challenge to value-collectivism, and accept in formal terms the view that human groups can be valuable to the point where their protection is ethically important in its own right, there still arises the question as to *which* human communities are deserving of concern and respect in their own right and which are not. We want to say that policies which lead to the destruction of certain cultural groups are impermissible (or at least ethically regrettable in at least this one respect) while policies which lead to the undermining of other communities, such as those built around pariah cultures, such as Nazism, are not. We also want to deny that such groups can be no more than interest groups, that is, a collection of disparate individuals who possess only a few interests in common. (Recall that one of the considerations in favour of the value-collectivist view is the conviction that it is more regrettable, in an ethically relevant sense, if an entire community is wiped out by some disease than if the same number of random individuals die from it - and this is despite the fact that the 1000 strangers constitute a group in the sense that they all share the feature of being disease stricken).

Of course, we have Van Dyke's eight standards to consider in this regard. However, a better standard, I think, is offered by Kymlicka in the course of his defence of individualist group-rights - but one which needs to be restricted in a special way. The standard is the notion of *societal culture*. Societal cultures are cultures which provide their members 'with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing

both public and private spheres.’⁴⁷ Adopting the view that societal cultures can be the only group-entities which can possess ultimate value explains why the destruction of random groups of individuals, interest-groups, or collections of individuals who share certain physical characteristics, is only regrettable because of the harm this destruction does *to individuals*. These groups cannot provide for most of the physical and emotional needs of their members, nor are they the vehicles for shared ways of life built upon the social institutions and linguistic practices held in common by a population.⁴⁸

The restriction, in contrast, is that the basic structure of the societal culture, namely, its social institutions and government organs, must be consistent with an abstract principle of equality according to which ‘it is objectively and equally important that each and every human life go well.’⁴⁹ This principle is a restriction upon which societal cultures are of ultimate value, rather than a condition on which cultures *are* societal cultures, because it appears that a culture can provide for many of the needs of its members in a way that demonstrates, as Dworkin puts it, ‘a shared vocabulary of tradition and convention’⁵⁰ without treating all of its members with equal concern and respect.⁵¹

⁴⁷ Kymlicka, *Multicultural Citizenship*, p.76.

⁴⁸ In contrast with the application of the idea of societal culture suggested here, Kymlicka takes societal cultures to be valuable in relation to the way in which they provide individuals with a ‘context of choice.’ Societal cultures are not valuable for Kymlicka independently of their contribution to their members’ well-being or capacity for autonomous choice. See *Multicultural Citizenship*, Chapter 5, especially pp.82ff; see also Dworkin, *A Matter of Principle*, pp.230ff.

⁴⁹ Dworkin, ‘Why We Are All Liberals’, p.29.

⁵⁰ Dworkin, *A Matter of Principle*, p.231; quoted and discussed by Kymlicka, *Multicultural Citizenship*, pp.76, and 83-4.

⁵¹ In *Multicultural Citizenship*, Kymlicka notes that individuating societal cultures is in practice a messy business. This is important for the present discussion as the proponent of the value-collectivist view must, if his view is to have any genuine practical application to

7. Obligations to Future Collectivities

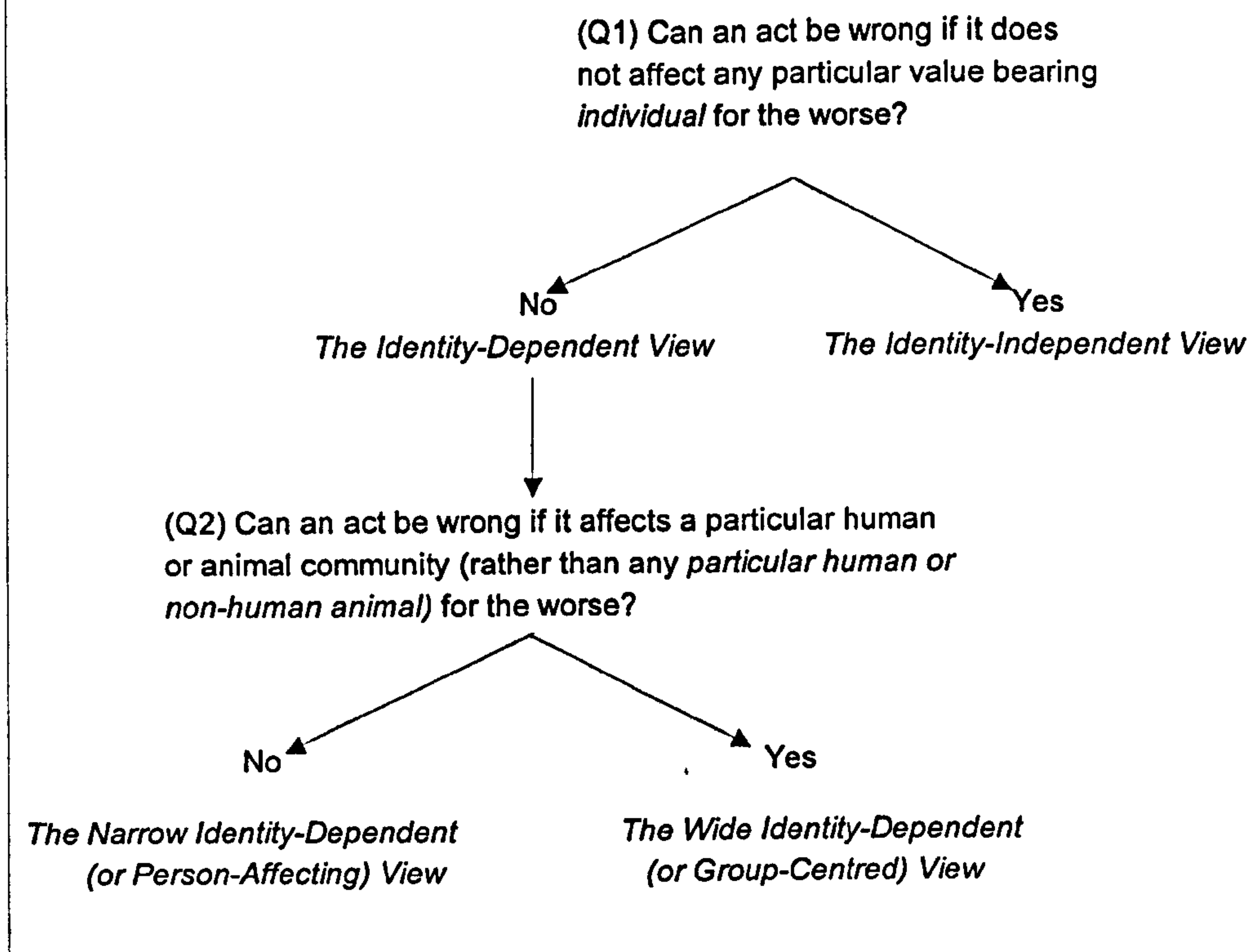
In what remains of this chapter I want to defend the view that a limited appeal to the interests, rights, or ethical value, of certain human (or possibly non-human animal) collectivities can solve the Non-Identity Problem in a limited, though important, range of cases; and as a result that this appeal can explain, from an identity-dependent point of view, what is wrong with implementing depletionist policies which will have adverse long-term effects. I call views of intergenerational ethics grounded in this appeal to human communities *group-centred views*. Group-centred views are special instances of identity-dependent views, such as Barry's or Scanlon's, which have been broadened to include human (or animal) groups as being the subjects of ethical consideration, and the way in which these different views relate to each other is explored in Figure 7 on the following page.

7.1 Climate Change and the Claims of Future Collectivities

Climate change is expected to have a range of effects, both positive and negative, on the cultural and social fabric of many nations. There is possibly no better example of this than the way in which these changes are expected to cause significant sea-level rises in the coming decades and centuries. In its latest assessment, the IPCC concluded that there will be an increase in global mean sea-levels of between 20cm and 86cm (with a 'best estimate' of 49cm) on 1990 levels by the year 2100.⁵²

applied ethical problems, be able to explain not just why certain groups (because they meet certain conditions) possess ultimate value, but in addition how we might go about determining *which* groups meet these conditions in the real world.

⁵² See R.A. Warrick et al, 'Changes in Sea-level', in J. Houghton et al, eds., *Climate Change 1995: The Science of Climate Change*, p.385.

Figure 7: Identity-Dependent and Identity-Independent Theories

Moreover, it also predicts that this will have serious consequences for many nations in the future, but in particular for developing countries which are entirely, or have regions which are, *low-lying*. For example, these sea-level rises are expected to damage coastal cropland, and displace millions of persons from low-lying and coastal communities. Just some of the low-lying nations that the IPCC thinks are in most danger are the north-east coastal nations of Latin America, Bangladesh, Egypt and Holland.⁵³

⁵³ See L. Bijlsma et al, 'Coastal Zones and Small Islands', in R.T. Watson et al, eds., *Climate Change 1995: Impacts, Adaptations, and Mitigation of Climate Change*, 289-324. The authors project that sea-level rise will have 'negative effects on a number of sectors, including tourism, freshwater supply and quality, fisheries and aquaculture, agriculture, human settlements, financial services, and human health' (p.292).

Perhaps the most disconcerting examples of nations vulnerable to sea-level rises, however, are the small island states of the South Pacific. The IPCC singles out these nations for special attention because of the especially adverse effects of sea-level rises on these states, including, in the worst case scenario, the possibility of *complete disappearance*. The combined effect of global warming and sea-level rises on such states is expected to result in reduced soil fertility, reduced availability of agricultural land, and higher levels of soil erosion. It will be massively expensive to undertake even moderate adaptive responses for all of these effects, and even if the resources could be found (from international humanitarian assistance, for example) the costs to various communities in terms of maintaining access to traditional ways of life, and adapting to new ways of living, would be huge. These are all projections which the IPCC make with some confidence.⁵⁴

Suppose the IPCC's fears about the 'best estimate' figure of global sea-level rise of a half a metre by the year 2100 are proved accurate. Consider

The Case of the Displaced Islanders. Towards the end of the 21st century, the elders of a Pacific Island state have assembled to assess the damage which climate change has caused their small community. In line with the IPCC's projections, their island has been partially submerged by the Pacific Ocean, and their agricultural industry partially destroyed by a combination of soil erosion and soil infertility. Because of the lack of employment

⁵⁴ See Bijlsma et al, 'Coastal Zones and Small Islands', pp. 296-98. See also E. Charles et al, *A Future for Small States: Overcoming Vulnerability*, London, Commonwealth Secretariat, 1997, pp.67ff.

prospects and general social upheaval, moreover, the indigenous population has been cut to a small percentage of its twentieth century level, although the existence of alternative sources of employment and sustenance outside the Island have meant that no particular Islander has failed to lead a life which was at least worth living. Finally, because of the combined impact of population displacement and other impacts, many cultural practices - practices which had been handed down through the generations - have been abandoned. The community, the elders agreed, was on the verge of collapse.

Let us put aside the economic, social and health impacts of climate change on existing islanders, and in particular the important issues of *international* justice which this case raises.⁵⁵ Has the island community *itself* been harmed by - has it a complaint against - the failure of previous generations to implement GHG limiting policies which may have prevented the unsavoury effects of climate change?

On any version of the value-collectivist view there is at least a suspicion that it has. Here, despite the fact that no particular individual will exist in the future where Depletion is adopted who would have existed had it not been, various groups and associations will, and are thus at least candidates for complaint-bearing status. Indeed, even if the island community ceased to exist following a catastrophic increase in sea levels, this would not mean that we could simply assume that it had never existed.

⁵⁵ These issues are discussed by T. Banuri et al, in IPCC, 1996c, pp.112-18; and Henry Shue, 'Environmental Change and the Varieties of Justice', in F.O. Hampson and J. Reppy, eds., *Earthly Goods: Environmental Change and Social Justice*, London, Cornell University Press, 1996, pp.9ff.

Rather, it would be because the nation had been destroyed primarily as a result, we are supposing, of the impact of climate change on its viability. The idea, then, is that the interests of the groups which constitute the Island - including, but not merely, the state itself - generate certain requirements which we can say were violated as a consequence of adopting the Depletion Policy.

Suppose that the community was, prior to the sea-level rise, a traditional community dedicated to preserving a rich cultural and linguistic heritage.⁵⁶ As the warming, and consequent sea level rises, would result in the impoverishment of the Islanders' linguistic and cultural heritage (most of the population bar the Elders, let us suppose, have fled to the mainland and now need to speak a different language in order to get by) the interests of the Islanders *as a collectivity* might be thought to have been harmed by this. Obviously there are a great many simplifying assumptions being made here. But the central claim - that climate change will in certain instances jeopardise the survival of certain communities and traditional patterns of life quite apart from the effects it will have on the members of these cultures taken one by one - appears to be a plausible one.⁵⁷

It is worth locating the view proposed here within the context of some of the contributions to the issue of the rights or claims of minority cultures discussed earlier.

Recall that it has recently been argued by Kymlicka that the adoption of certain acts

⁵⁶ We need not assume that the preservation of the native language is a *necessary* condition of the survival of the island's cultural life as such, as there may well be other distinctive and well-rooted cultural traditions enjoyed by the islanders which can be continued and preserved for the sake of posterity, without their being pursued in a particular language (just as the Welsh can play rugby without discussing tactics in Welsh).

⁵⁷ The IPCC certainly think so, for they expect that 'adaptation to sea-level-rise and climate change will involve important trade-offs, which could include environmental, social, cultural values' (see See Bijlsma et al, 'Coastal Zones and Small Islands', p.292).

or social policies can be wrong by virtue of undermining the needs which particular individuals have to access a flourishing cultural or communal context within which to pursue their personal life-plans or conceptions of the good. In his treatment of the issue of the claims of minority communities, Kymlicka claims that 'membership in a cultural structure is what enables individual freedom, what enables meaningful choices about how to lead one's life',⁵⁸ and he goes on to suggest that the ethical importance of *individual* freedom is such that persons belonging to disadvantaged minority cultures should be afforded additional rights and resources to compensate for the disadvantages they face as a result of membership in a minority culture. But, as we have seen, while these rights are collective, in the sense that they are exercised collectively rather than individually, they are nonetheless individual rights in the sense that they are grounded in the interests of particular persons.⁵⁹

By contrast, according to the view proposed above, the communities which future people will belong to are deserving of concern and respect *in their own right*; and if present actions have the result either that these communities die out altogether, or are damaged in the sense that various communal practices are undermined, they are ethically objectionable at least in this one important respect.⁶⁰ In this regard, this

⁵⁸ Kymlicka, *Liberalism, Community, and Culture*, p.208; and *Multicultural Citizenship*, pp.80ff.

⁵⁹ See Kymlicka, *Multicultural Citizenship*, pp.34ff.

⁶⁰ The idea of group-centred requirements of intergenerational justice might also be contrasted with the more obviously 'communitarian' idea that present persons should protect the conditions of communal flourishing because the communities which they belong to are in fact essential components of their identity as persons. Consider, for example, the communitarian theory of intergenerational justice defended in Avner de Shalit's *Why Posterity Matters*, especially Chapter 1, pp.13-50. The idea is also to be contrasted with recent contributions to the 'deep ecology' mode of environmental thought, according to which duties of environmental conservation flow from the fact that human identity is not merely moulded by membership in human communities, but in addition by its connection to natural processes and the biosphere itself. See, for example, Warwick Fox, *Toward a*

group-centred view shares much in common with Taylor's and Van Dyke's work on multiculturalism and the politics of recognition, and in particular on the issue of the value of communities.

Taylor, for example, denies that the worth of communities is derived from the value it has in securing the 'cultural needs' of individuals, such as their seeking to give meaning to their lives. He gives two reasons for this. First, Kymlicka's *individualistic* view neglects the moral importance of various communities *qua* communities. The idea here is that communities are often not merely associations of value-bearing individuals, but rather moral entities in their own right. Secondly, the individualistic view cannot make space for the way in which many persons have the intense desire that the community, or communities, they belong to continue to survive and flourish for reasons unrelated to the positive impact that this will have on their own well-being, or on the well-being of their compatriots taken as individuals.⁶¹ As such, Taylor argues that Kymlicka's individualistic view might be valid perhaps

for existing people who find themselves trapped within a culture under pressure, and can flourish within it or not at all. But it doesn't justify measures designed to ensure survival through indefinite future generations. For the populations concerned, however, that is what is at stake.⁶²

Transpersonal Ecology, Boston, Shambala, 1990. By contrast, the key to the group-centred view is the idea that adopting social policies which undermine the integrity or viability of certain human, or non-human animal, communities is morally regrettable because this fails to afford these communities the respect that they deserve as moral entities, not that they are regrettable in virtue of undermining the motivations of self-transcendence entertained by existing human beings.

⁶¹ Taylor, 'The Politics of Recognition', pp. 40-41.

⁶² Taylor, 'The Politics of Recognition', p. 41.

According to the terminology introduced earlier, and developed in Figure 7, it appears that Taylor is advocating a *widely* identity-dependent (or group-centred) view to Kymlicka's *narrowly* identity-dependent (or individualistic) view.

The group-centred view might also be developed more obviously in terms of group-*rights*, if the recent work of Brown-Weiss can be defended. According to Brown-Weiss, a basic requirement of intergenerational distributive ethics is that each generation respect the rights of successor generations to inherit an equal share of natural resources; and that these *planetary* or *generational* rights

may be regarded as group-rights, as distinct from individual rights, in the sense that generations hold these rights as groups in relation to other generations - past, present and future. They exist regardless of the number and identity of individuals making up each generation.⁶³

Weiss goes on to claim that the notion of planetary rights, *qua* rights of non-individual entities, escape considerations of Non-Identity, which only call into question 'the traditional conceptual framework of rights as rights of individuals.'⁶⁴

Planetary rights, on the contrary, 'are not rights possessed by individuals' but are rather possessed 'by generations themselves against other generations.'⁶⁵

⁶³ Edith Brown-Weiss, 'Our Rights and Obligations to Future Generations for the Environment', *The American Journal of International Law*, 84, 1990, p.203. See also Weiss, *In Fairness to Future Generations: International Law, Common Patrimony*, Tokyo, United Nations University, 1989, pp.114-15.

⁶⁴ Weiss, 'Our Rights and Obligations for the Environment', p.205.

⁶⁵ Weiss, 'Our Rights and Obligations for the Environment', p.205.

Here we come to the crucial advantage of appeals to the rights, interests or value of groups as opposed to the rights, interests, or value of individuals in the intergenerational context. Appeals to group-rights, or group-value, seem to avoid problems of Non-Identity by virtue of the fact that the conditions of existence of groups are much more *robust* than that of their individual members: they typically endure for a much longer time-span, for example, and crucially their formation does not depend upon the coming together of two singular cells.

According to group-centred views, then, it is simply irrelevant that no particular future islander in the above case will be harmed by the Depletion Policy's adoption (recall that they all lead lives which are at least worth living and owe their existence to it), for it may still remain the case that the islanders *as a group* are harmed. Here there is a direct link between the fact that the identities of groups are not as precarious as those of individuals, and the possibility that the interests of groups *qua* groups may be disadvantaged by the social policies adopted at earlier moments in time (possibly, before these groups even existed).

It seems, then, that the group-centred view, whether developed in terms of group-value or group-rights, solves the Non-Identity Problem where certain conditions arise. For illustration, recall the four beliefs which seem to be inconsistent in circumstances of Non-Identity. The response to this inconsistency is to retain unaltered beliefs A, C and D - and to revise belief B to incorporate groups as being fully-fledged ethical entities. This response is consistent with the identity-dependent view of ethics, because it is *particular*, or *individual*, groups here which possess an interest in (and thus rights to) the maintenance of an undamaged heritage of cultural goods, such as

viable linguistic structures. The value of cultural preservation, on this view, is not owed 'to the world' abstracted from the way it connects to the flourishing, and continued survival, of certain human communities. Indeed, both individual and group-rights share at least this one feature, namely, that they can be held only by particular, unified, entities.

Because it retains an identity-dependent structure, one merit associated with embracing the group-centred view is that it appears readily reconcilable with the views of both Barry and Scanlon. Recall that, for Scanlon, an act is wrong only if its performance 'would be disallowed by any system of rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement.'⁶⁶ It was argued above that contractualism, and the Unanswerable Complaints Principle this view endorses, seems problematic in the context of Non-Identity cases such as the Depletion-Conservation choice, as the Depletion People, taken one by one, do not appear to have a legitimate complaint against the Depletion Policy's adoption.

However, contractualists need not commit themselves necessarily to the view that the complaints that they view as unanswerable must be restricted to those arising from harms, or wrongs, done to *particular persons*. This is demonstrated by Scanlon's understanding of the scope of contractualism, according to which ethically considerable entities must (1) possess a good in the sense that 'there be a clear sense in which things can be said to go better or worse for that being', and (2) 'constitute a point of view; that is there be such a thing as what it is like to be that being.'⁶⁷ These

⁶⁶ Scanlon, 'Contractualism and Utilitarianism', p. 110.

⁶⁷ Scanlon, 'Contractualism and Utilitarianism', pp. 113-14.

two conditions must hold, Scanlon thinks, for us to be able to hold that the notion of justification can be applied to an entity. But while there are certainly differences between the 'points of view' of particular human beings on the one side, and particular groups of human beings on the other, there seems to be no insurmountable barrier in the way of those who wish to argue that there can be such a thing as a group point of view, or perspective on things, or that things can go better or worse for at least *some* groups.

While I have not the space here to construct a more positive defence for this line of thought, it is worth mentioning again the fact that many people's ethical convictions certainly point in this direction. Consider, once more, the widespread conviction that the deaths of large numbers of persons from small indigenous communities (which result in the deaths of these communities) are more regrettable from the ethical point of view than equivalent numbers of deaths of unrelated individuals. In any case, the suggestion is that we ought to think seriously about revising Scanlon's account of moral reasoning to read that 'an act is wrong only if it affects some particular individual *or group* in a way that cannot be justified.'

8. The Group-Centred View: Some Problems

I have space to mention two problems with the group-centred solution to the Non-Identity Problem. First, suppose that a course of action which we think will harm a certain future group's interests would also be a necessary condition of that group coming into existence in the first place. In such cases, it might be that the approach

will be plagued by a new *group-centred* version of the Non-Identity Problem, which we might call the *Extended Non-Identity Problem*.

Fishkin discusses an interesting historical example of how the Extended Non-Identity Problem might arise, grounded in the experience of the descendants of the many West Africans who were transported to North America to live as slaves in previous centuries.⁶⁸ Here, we are invited to consider the position of a present-day African American individual who suggests that he himself had been harmed, and deserves compensation, in virtue of being born into a community which had been created by the enslavement of his ancestors, and which is still endeavouring to cast off the stigma associated with being the victim of such gross injustices. The Non-Identity Problem suggests that this person could not possibly have been harmed by the slavers' activities, as he owed his existence, in part, to their actions (as almost all existing persons do, I suspect, for the 'knock-on' effects of the slavers' actions have been immense).

Suppose next that the complaint had been made on behalf of the present-day African American *community*, rather than on behalf of a present-day African American *individual*. The enslavement seems to have been a necessary condition of the existence of the present-day African American community. Let me explain. If this grave injustice - or series of injustices - had never occurred, there would be no African American community in quite the same sense as there is today. There would no doubt be some Africans who had emigrated to the United States, for example, but it is unlikely that there would be the rich diversity of African American linguistic and

⁶⁸ James S. Fishkin 'Justice Between Generations', *Nomos XXXIII: Compensatory Justice*, John Chapman, ed., New York, New York University Press, 1991, pp.91ff.

cultural heritage that there is today. As a result, according to the new - *extended* - version of the Non-Identity Problem the representative of this present-day community could not even argue that his present-day *community* had been harmed by the original enslavements.⁶⁹ If a similar line of thinking could be exported to other cases of Non-Identity, such as the Conservation-Depletion case, then various group-centred objections to the adoption of policies which seem to be intuitively impermissible in these cases would seem to fall away.

At this point, it is worth noting that conditions of Non-Identity will obtain much less regularly in the case of groups than in the case of individual persons. This is because, as noted above, the identities of groups are more robust than those of individuals. As a result, the Extended Non-Identity Problem only partly rebuts, that is it *reduces the scope* of, group-centred principles such as the Wide Unanswerable Complaints Requirement.

Second, putting aside the Extended Non-Identity Problem, while the Wide Unanswerable Complaints Requirement appears to narrow the range of problematic Non-Identity cases, it leaves a number of such cases untouched. Recall the case discussed earlier, where a young woman, Anna, decided to conceive a handicapped child despite the fact that she could have delayed her pregnancy in order to receive some inexpensive, and safe, treatment. The Wide Unanswerable Complaints Requirement appears to be of little use in the context of this case: it cannot explain our conviction that Anna acts wrongly by failing to seek treatment for her ailment. As

⁶⁹ I put to one side, here, the injustices which the original enslavement perpetrated on the African slaves and the communities to which they belonged to at the time of this enslavement.

a result, even if we endorse this contentious principle we are still left with a gap between the way in which our considered convictions lead us to think that Anna acted wrongly and the limits of identity-dependent ethics.

Group-centred principles are particularly ill suited to single-person Parfitian cases, such as the case of Anna - which do not concern actions which will have profound consequences for the health, or continued flourishing, of *entire communities*. Perhaps the Wide Unanswerable Complaints Requirement could be extended to cover *classes* of future persons (such as denoted by the expression 'Anna's First Child') which do not make reference to a particular future person, but I am sceptical about this. The class of any woman's potential children, for example, is not a group in the same sense that a culture or nation is - it cannot provide for the needs of its members, or make a claim to be of *ultimate* value. One cannot harm a class of any given woman's *possible* children.

It is worth noting that, in Chapter 5, I argued that Anna-type cases can be solved by what were called Number-Sensitive Comparative Principles, such as Parfit's *Same-Number Quality Claim*, so one might think that the inability of group-centred theorising to solve such cases does not pose such a tremendous worry. This is particularly the case, it might be argued, as one of the recurring themes of the discussion in previous chapters has been that intergenerational ethics is *pluralistic* in the sense that there are a plurality of grounds for our concerns about the well-being of members of future generations. The fact that the group-centred view cannot apparently underpin all of our ethical convictions in the light of Non-Identity Problem cases, then, should not detract from the fact that these principles offer at least some

defence of an identity-dependent environmental and intergenerational ethic. On the other hand, this limitation does at least suggest that, if we are ever to achieve a match between our considered convictions and our normative theorising in such cases, Number Insensitive Comparative Principles will play some role in our account.

Chapter 7: Conclusions

Although a broad consensus exists that climate change raises questions of intergenerational distribution of enormous significance, this view had until recently attracted relatively little philosophical attention. In this thesis, I have sought to clarify and taxonomise a series of issues which I take to be crucial for the evaluation of this view. In the course of the discussion, I have not attempted to defend a more or less complete theory of intergenerational distribution. Rather, I have discussed some of the most interesting problems which face those who wish to appeal to some familiar principles of distribution *within* generations in order to approach certain issues of distribution *between* generations. In what follows, I provide a chapter by chapter summary of the thesis and its principal findings, and a brief sketch of two applications of these findings for the issue of climate change policy.

1. Summary of Argument

In recent years, much time and energy has been devoted to the exploration of the scientific basis of global climate change. The main results of this research have been two-fold. First, it has brought about an unprecedented convergence in the world's climatological community on the view that the balance of evidence, to quote the IPCC, 'suggests discernible human influence on climate change.'¹ Second, it has brought about a convergence on the view that climate change will alter the distribution of benefits and burdens both within and between the generations to come.

¹ IPCC, 1996a, p.5.

In Chapter 1, I summarised much of the salient recent evidence for the view that climate change, if unchecked, will have peculiarly grave consequences for the integrity of the biosphere, and for the well-being of the earth's future human inhabitants. It was argued that climate change will have a predominantly, if not uniformly, *adverse* impact on future human health, as well as on the cultural and socio-economic structures handed down to future generations. It was also argued that climate change would have more adverse effects for certain vulnerable populations, such as those residing in coastal areas of developing nations, and for small island communities.

Also in Chapter 1, I observed that I found it surprising that, despite the burgeoning interest in climate change issues, there have been few attempts to test the robustness of the claim that the sorts of impacts the IPCC predict raise questions of significance for a range of pre-eminent theories of distributive ethics. The possibility that such theories might not be suitable for extension to the intergenerational context, for example, had rarely been discussed.

In order to plug this hole in the literature, I embarked, in Chapter 2, on an extended discussion of a variety of theories of the ethics of distribution, and explored the question of whether the IPCC's findings raised issues which these theories viewed as significant. I found that the IPCC's predictions concerning the long-term impacts of climate change did indeed raise genuine problems for theories of distributive equality, priority and sufficiency on the one hand, and theories of resourcism, welfarism, and basic-capabilities on the other - although I also found that the intergenerational extension of welfarist theories was on balance more problematic than was the case for

other theories. I went on to argue that climate change impacts would appear to raise questions for libertarian and communitarian theories as well. The first principal finding of the thesis, then, was that intergenerational distributive ethics is indeed a genuine, if somewhat under-developed, subject of concern: familiar theories of distribution could indeed serve as a framework for investigating issues of distribution *between* generations, just as they do in the context of distribution *within* generations.

In the core part of the thesis, encompassing Chapters 3 through 6, I went on to discuss in detail *two* particularly interesting problems which plague the intergenerational extension of some familiar principles, and theories, of distribution. According to the first problem, it is alleged that the lack of reciprocity evident in dealings between persons belonging to different generations undermines the claims of future persons to resources currently at the disposal of existing persons. I called this the *Non-Reciprocity Problem*. In the first few sections of Chapter 3, I discussed the Non-Reciprocity Problem in some detail and suggested that it undermined the intergenerational extension of a cluster of theories which assume that the *scope* of distributive ethics is determined by the notion of reciprocal benefit (I called these *reciprocity-based* theories).

In later sections of Chapter 3, and the whole of Chapter 4, I went on to suggest that, even if we assume that there exists a tight connection between the notion of reciprocity and the scope of distributive ethics, there are reasons to think that enough reciprocity exists in dealings between generations to ground quite far-reaching duties of intergenerational ethics. In sections 5 and 6 of Chapter 3, for example, I examined Barry's suggestion that there are at least two ways in which we might reconcile

reciprocity-based theories with quite stringent norms of intergenerational ethics. This, I argued, is because there is a distinctive, if *indirect*, form of reciprocity which exists in dealings between persons belonging to non-proximate generations.

I went on to discuss the idea of *indirect reciprocity* in terms of two accounts of intergenerational obligation, namely, the Chain of Concern and the Trusteeship models. I found that, although there are problems with these two views, the duties they define seem defensible when the correct pre-conditions obtain. In fact, the partial ability of these models to explain and give unity to widely held convictions about intergenerational responsibility, I ventured, lends some credence to the view that the ethics of intergenerational distribution is complex and not admitting of tidy solution. That is, it appears that there are multiple sources of our obligations to future generations, just as it seems that there are multiple sources of our obligations to contemporaries. This was my second principal conclusion.

In Chapter 4, I went on to discuss the possibility that reciprocity-based conceptions of intergenerational distribution might be premised on the idea that, while present persons can either enhance or diminish the well-being of future persons through standard causal pathways, future persons may at the very least be in a position to diminish the well-being of present persons *non-causally* through the avenue of posthumous harm. Although the notion of posthumous harm is contentious, I argued that a number of objections to it which have been raised in the philosophical literature were flawed, and that two pre-eminent theories of well-being seem consistent with the notion. Consequently, it seemed that if it could be proved that there exists no reciprocity between members of different generations, this would not be because

persons cannot be harmed after their death. One note of caution which I endorsed, however, lay in the thought that the measure of reciprocity which the existence of posthumous harms brings to intergenerational dealings is somewhat limited and therefore could only provide a limited basis for a defence of intergenerational applications of reciprocity-based distributive ethics. This was my third principal conclusion.

At the start of Chapter 5, I observed that, even if we rejected the claim that the scope of distributive ethics is determined by considerations of reciprocal benefit, there are still some formidable objections to the idea that familiar distributive theories - such as theories of equality, priority and sufficiency - can be extended intergenerationally. According to the second 'problem of extension' I discussed, the conviction that activities which contribute to global climate change are impermissible because they *harm* future persons is indefensible because the very acts or social policies which contribute to climate change turn out to be necessary conditions of the vast majority of future persons coming into existence. This raises what has been called the *Non-Identity Problem*.

In Chapter 5, I outlined the way in which the Non-Identity Problem arises in the case of individual procreative decisions which determine the existence and quality of life of a single person, as well as for social policy decisions which determine the existence and quality of life of many people. It was argued that this problem calls into question the intergenerational extension of a wide range of ethical principles which pre-suppose that actions or policies can be wrong *only* if they harm or render worse off particular people (I called these *identity-dependent* accounts). As such,

considerations of Non-Identity seem to undermine the claim that present persons or institutions owe any ethical duties at all to the vast majority of members of future generations *so long as we appeal only to identity-dependent ethical principles*.

This finding, I argued, has important implications for climate change ethics, for if we assume that ethics has an identity-dependent structure we must abandon the thought that global environmental problems such as climate change, which may well lower the quality of life for future generations, are ethically regrettable in virtue of the effects they have on posterity (although they may be ethically regrettable in virtue of effects on existing people). I went on to suggest that, despite the apparently counter-intuitive implications of *exclusive* appeals to identity-dependent principles, there were at least three reasons why it would be worth investigating identity-dependent responses to the Non-Identity Problem, rather than abandoning the approach in favour of some version of the rival *identity-independent* view. These included the consideration that much contemporary thinking about ethics, both at the theoretical and the intuitive levels, remains stubbornly committed to an identity-dependent framework.

In the later sections of Chapter 5, and the whole of Chapter 6, I outlined two identity-dependent lines of thought which appear to solve the Non-Identity Problem in an important, if limited, range of cases. According to the first line of thought, discussed in section 4 of Chapter 5, many of the obligations which we violate by despoiling the environment are grounded in the *specific* (rather than the *general*) rights possessed by future individuals. I found that, despite the fact that there seems some mileage in the appeal to specific-rights in this context, theories that appeal solely to the way in

which the behaviour of existing people violates the interests of future individuals seem unlikely to capture more than a very small part of intergenerational ethics. This was my fourth principal conclusion.

According to the second identity-dependent line of thought, discussed in Chapter 6, many of the obligations we violate by damaging the environment are grounded in the *collective* interests of particular future communities or groups. I noted that the idea of group-rights has been interpreted in several conflicting ways, and that the whole notion of rights which protect the interests of collective units cries out for clarification. Much of the discussion of Chapter 6 attempted to clarify and taxonomise various understandings of group-rights and their potential application to cases of Non-Identity. It was suggested that, as in the case of the appeal to specific-rights, the appeal to group-rights appeared to provide *some* basis for duties of intergenerational distributive ethics, even where considerations of Non-Identity obtained. However, I also found that a new version of the Non-Identity Problem plagued such appeals, because in certain cases future groups will owe their very existence to the environmentally profligate acts performed by previous generations.

Because the appeals to specific-rights and group-rights could not explain many peoples' convictions about the wrongness of adopting policies which neither violate the specific interests of future individuals nor the collective interests of future groups *but which nevertheless lower the quality of life enjoyed by future generations*, it seemed that any attempt to explain such convictions would have to appeal, *in part*, to identity-independent principles. Identity-independent principles, to recall, are compatible with the view that acts or social policies can be wrong even if they fail to

harm or render worse off particular entities. This was my fifth and final principal conclusion.

2. Applications

I mentioned below just two applications of my discussion for recent moves towards translating concerns about the impacts of climate change into stringent international, legally binding, agreements on the reduction of GHG emissions - in particular those culminating in the recent negotiations at the Kyoto climate change summit.

First, I take it that nothing in what I have found justifies the profound scepticism of the global energy lobby, or the position of the oil producing states, towards these negotiations. Climate change sceptics such as Patrick Michaels may object to the research techniques adopted by, and thus the *scientific findings* of, the IPCC in order to defend the view that large sums of money should not be invested in policies designed to reduce GHG emissions, but they have no grounds on which to appeal to *ethical* considerations in order to justify such a stance.

Second, from the ethical point of view it looks suspiciously as if the measures agreed at Kyoto as they stand will be insufficient to prevent members of the present generation from violating various duties to their descendants. Part of the reason for this speculation is that the cuts in emissions which the Kyoto protocol requires do not apply to developing countries. This is a problem because many developing countries, such as China, have rapidly expanding outputs of GHGs. As a result, it seems likely that even if the GHG reductions required by the Kyoto Protocol were adhered to by the developing nations party to it, *global* GHG emissions would, on balance, continue

to rise well into the next century. This, I venture, would *not* be a development which is consistent with the fulfilment of the duties we have to future generations, whether they take an identity-dependent or identity-independent form.

Another problem is that, even if developing nations agree to be bound by the Kyoto protocol at some later date, the *net* global reductions in GHG emissions which would result would still not be sufficient to prevent many of the adverse impacts which were discussed in Chapter 1. This is because the average cut in emissions required by the protocol (a modest 5.2% on 1990 levels by 2012) is far below the level at which many leading IPCC climatologists claim will be necessary to keep changes in climatic variables to a level that most ecological systems can tolerate (one estimate has this at a global 60% cut on 1990 levels in the same time-frame).²

Bringing these two points together, I agree with the view expressed by a *Friends of the Earth* spokesperson, who has claimed in regard to the Kyoto summit that

Governments have delivered a deal but at present this is a fatally compromised and riddled with loopholes. Millions of people world-wide will remain at risk from the social and economic upheaval that will accompany progressive global warming. There must be an urgent evaluation of what has been achieved here and early efforts to improve this weak agreement.³

If, as I have argued above, there are several sources of intergenerational obligation (including, but not merely, certain obligations correlative to the rights of various

² See, for example, 'Industrial Countries Agree to Cut Emissions', *The Times*, Thursday December 11 1997.

³ Tony Juniper, 'Kyoto Deal Will Not Stop Global Warming', p.1.

future individuals' *specific-interests* and various future collectivities' *group-interests*), Kyoto will do relatively little to prevent our generation violating these rights.

It would be convenient, of course, if members of existing generations could argue that their temporal remoteness, as well as their relative lack of power, meant that we could ignore the interests, needs, or rights of future persons in our decisions about how to treat the environment. In recent years, apparently serious philosophers have argued that because of the problems of *Non-Identity*⁴ or *Non-Reciprocity*⁵ we can effectively disregard the long-term effects of our actions, even if it can be predicted that they will have grave consequences for the well-being of our distant successors. I hope to have shown in this thesis that this view is unfounded: that, although the problems raised by these philosophers are of genuine concern, they complicate rather than undermine the obligations we have to protect the climate system for the sake of future generations.

⁴ See Martin Schwartz, 'Obligations to Posterity', in R.I. Sikora and Brian Barry, eds., *Obligations to Future Generations*, p.3ff.

⁵ See Martin Golding, 'Obligations to Future Generations', *The Monist*, 56, 1, January 1972, pp.86ff.

Bibliography

Adams, R.M. 'Existence, Self-Interest and the Problem of Evil', *Nous*, 13, 1979.

Adams, R.M. 'Should Ethics be More Impersonal? A Critical Notice of Derek Parfit's *Reasons and Persons*', *The Philosophical Review*, 98, October 1989.

Adams, R.M. 'Must God Create The Best?', *Philosophical Review*, 81, 1972.

Alcamo, J., Bouwman, A., Edmonds, J., Grubler, A., Morita, T. and Sugdandhy, A.
'An evaluation of the IPCC IS92 Emissions Scenarios', in J.T. Houghton et al,
eds., *Climate Change 1994: Radiative Forcing of Climate Change and an
Evaluation of the IPCC IS92 Emissions Scenarios*, below.

Appiah, K.A. 'Identity, Authenticity, Survival: Multicultural Societies and Social
Reproduction', in A. Guttman, ed., *Multiculturalism*, below.

Aristotle, *Nichomachean Ethics*, London, Penguin, 1953.

Arneson, R. 'The Principle of Fairness and Free-Rider Problems', *Ethics* 92, 1982.

Arneson, R. 'Equality and Equal Opportunity For Welfare', *Philosophical Studies*,
56, 1989.

Arneson, R. 'Equality', In R. Goodin and P. Pettit, eds., *A Companion To
Contemporary Political Philosophy*, below.

Arrow, K. 'Rawls' Principle of Just Savings', *Swedish Journal of Economics*, 75,
1973.

Arrow, K. J. et al, 'Intertemporal Equity, Discounting and Economic Efficiency', in
J.P Bruce et al, eds., *Climate Change 1995: Economic and Social Dimensions
of Climate Change*, below.

Attfield, R. *The Ethics of Environmental Reform*, Oxford, Blackwell, 1983.

Baier, A. 'The Rights of Past and Future Persons', in E. Partridge, ed.,
Responsibilities To Future Generations, below.

Ball, T. 'The Incoherence of Intergenerational Justice', *Inquiry*, 28, 1985.

Bandman, B. 'Do Future Generations Have The Right To Breathe Clean Air',
Political Theory, 10, 1, February 1982.

Barry, B. 'Rawls On Average and Total Utility: A Comment', *Philosophical Studies*,
31, 1977.

Barry, B. 'Justice Between Generations', in P.M.S. Hacker and J. Raz, eds., *Law,
Morality and Society: Essays In Honour of H.L.A. Hart*, Oxford, Clarendon
Press, 1977.

Barry, B. 'Circumstances of Justice and Future Generations', in R.I. Sikora and B.
Barry, *Obligations to Future generations*, below.

Barry, B. *Democracy, Power and Justice*, Oxford, Clarendon, 1989.

Barry, B. *Theories of Justice*, Hemel Hempstead, Harvester-Wheatsheaf, 1989.

Barry, B. *Justice As Impartiality*, Oxford, Clarendon Press, 1995.

Barry, B. 'Contractual Justice: A Modest Defence', *Utilitas*, 8, 3, 1996.

Bayles, M. *Morality and Population Policy*, Alabama, University of Alabama Press,
1980.

Becker, L.C. *Reciprocity*, London, Routledge, 1986.

Beckerman, W. and Malkin, A. 'How Much Does Global Warming Matter?', *The
Public Interest*, 114, 1994.

Beckerman, W. *Small is Stupid: Blowing The Whistle On The Greens*, London,
Duckworth, 1995.

- Bickham, S. 'Future Generations and Contemporary Ethical Theory', *Journal of Value Enquiry*, 15, 1981.
- Bijlsma, L. et al. 'Coastal Zones and Small Islands', in R.T. Watson et al, eds., *Climate Change 1995: Impacts, Adaptations, and Mitigation of Climate Change*, below.
- Brock, D.W. 'The Non-Identity Problem and Genetic Harms', *Bioethics*, 9, 3/4, 1995.
- Broome, D. 'Fairness', *Proceedings of The Aristotelian Society*, 91, 1990-91.
- Broome, D. *Counting The Cost of Global Warming*. Cambridge, The White Horse Press, 1992.
- Brown, G. 'Why Labour Is Still Loyal To The Poor', *The Guardian*, August 2, 1997.
- Bruce, J.P., Lee, H. and Haites, E.F., eds. *Climate Change 1995: Economic and Social Dimensions of Climate Change*, Cambridge, Cambridge University Press, 1996.
- Buchanan, A. 'Liberalism and Group Rights', in J.L. Coleman and A. Buchanan, eds., *In Harm's Way: Essays In Honour of Joel Feinberg*, below.
- Buchanan, A. 'Assessing The Communitarian Critique of Liberalism', *Ethics*, 99, 4, July 1989.
- Buchanan, A. 'Justice As Reciprocity Versus Subject-Centred Justice', *Philosophy and Public Affairs*, 19, 3, 1990.
- Buchanan, A. *Secession*, Oxford, Westview Press, 1991.
- Burke, E. *Reflections on the Revolution in France*, London, Penguin, 1968.
- Callahan, J. C. 'On Harming The Dead', *Ethics*, 97, January 1987.
- Care, N.S. 'Future Generations, Public Policy, and The Motivation Problem', *Environmental Ethics*, 4, 1982.

Chapman, J., ed. *Nomos XXXIII: Compensatory Justice* New York, New York University Press, 1991.

Charles, E., ed. *A Future For Small States*, London, Commonwealth Secretariat, 1997.

Cohen, G.A. 'On The Currency of Egalitarian Justice', *Ethics*, 1989.

Cohen, G.A. *Self-Ownership, Freedom, and Equality*, Cambridge, Cambridge University Press, 1995.

Coleman, J.L. and Buchanan, A., eds. *In Harm's Way: Essays In Honour of Joel Feinberg*, Cambridge, Cambridge University Press, 1994.

Cullity, G. 'Moral Free Riding', *Philosophy and Public Affairs*, 24, 1995.

D' Amato, A. 'Do We Owe a Duty to Future Generations to Preserve the Global Environment?', *The American Journal of International Law*, 84, 1990.

Daniels, N. *Justice and Justification: Reflective Equilibrium in Theory and Practice*, Cambridge, Cambridge University Press, 1996.

Dasgupta, P. 'On Some Alternative Criteria for Justice Between Generations', *Journal of Public Economics*, 3, 1974.

Dasgupta, P. 'Savings and Fertility Issues', *Philosophy and Public Affairs*, 23, 1994.

De George, R.T. 'The Environment, Rights and Future Generations', in Partridge, ed., *Responsibilities to Future Generations*, below.

Delattre, E. 'Rights, Responsibilities and Future Generations', *Ethics*, 82, 1971/72.

Department of the Environment, *Climate Change: The UK Programme*, London, HMSO Books, February 1997 (Cm 3558).

Dworkin, R. *Taking Rights Seriously*, Duckworth, 1977.

Dworkin, R. 'What is Equality? Part One: Equality of Welfare', *Philosophy and Public Affairs*, 10, 3, 1981.

Dworkin, R. 'What is Equality? Part Two: Equality of Resources', *Philosophy and Public Affairs*, 10, 4, 1981.

Dworkin, R. *A Matter of Principle*, Oxford, Oxford University Press, 1985.

Dworkin, R. *Life's Dominion*, London, Harper Collins, 1993.

Dworkin, R. *Why We Are All Liberals*, Typescript, New York University School of Law, 1995.

Elliot, R. 'Future Generations, Locke's Proviso and Libertarian Justice', *Journal of Applied Philosophy*, 3, 1986.

Elliot, R. 'The Rights of Future People', *Journal of Applied Philosophy*, 6, 2, 1989.

Elliot, R. 'Identity and The Ethics of Gene Therapy', *Bioethics*, 7, 1, 1993.

Elliot, R. *Environmental Ethics*, Oxford, Oxford University Press, 1995.

Elster, J. *Sour Grapes*, Cambridge, Cambridge University Press, 1983.

English, J. 'Justice Between Generations', *Philosophical Studies*, 31, 1977.

Feinberg, J. 'Harm and Self-Interest', in P.M.S. Hacker and J. Raz, eds., *Law,*

Morality and Society: Essays In Honour of H.L.A. Hart, below.

Feinberg, J. *Rights, Justice and The Bounds of Liberty*, Princeton, Princeton University Press, 1980.

Feinberg, J. *Harm To Others*, Oxford, Oxford University Press, 1984

Feinberg, J. *Harmless Wrongdoing*, Oxford, Oxford University Press, 1988.

Finnis, J. *Natural Law and Natural Rights*, Oxford, Clarendon Press, 1980.

Finnis, J. *Fundamentals of Ethics*, Oxford, Clarendon Press, 1983.

Fishkin, J. 'Justice Between Generations', in J. Chapman, ed., *Nomos XXXIII*:

Compensatory Justice, above.

Fishkin, J. *The Dialogue of Justice*, New Haven, Yale University Press, 1992.

Frankfurt, H. 'Equality as a Moral Ideal', *Ethics*, 98, October 1987.

Frederickson, H.G. 'Can Public Officials Correctly Be Said To Have Obligations To Future Generations?', *Public Administration Review*, 54, 1994.

Frey, R.G. and C. Morris, eds., *Value, Welfare and Morality*, Cambridge, Cambridge University Press, 1992.

Fuchs, A.E. 'Posthumous Satisfactions and The Concept of Individual Welfare', *Journal of Philosophical Research*, 16, 1990-91.

Gauthier, D. *Morals By Agreement*, Oxford, Clarendon Press, 1986.

Gibbard, A. 'Constructing Justice', *Philosophy and Public Affairs*, 20, 1991.

Glover, J. *Causing Death and Saving Lives*, London, Penguin, 1977.

Glover, J. *What Sort Of People Should There Be*, Harmondsworth, Penguin Books, 1984.

Glover, J. 'Future People, Disability and Screening', in P. Laslett and J.S. Fishkin, eds., *Justice Between Age Groups and Generations*, below.

Golding, M.P., 'Obligations To Future Generations', *Monist*, 56, 2, 1972.

Goldsworthy, J. 'Well-Being and Value', *Utilitas*, 4, 1992.

Goodin, R. *Protecting The Vulnerable*. London, University of Chicago, 1985.

Goodin, R. and Pettit, P., eds., *A Companion To Contemporary Political Philosophy*, Oxford, Blackwell, 1993.

Goodpaster, K. E. 'On Being Morally Considerable', *Journal of Philosophy*, 75, 1978.

Goodpaster, K.E. and Sayre, K.M., eds., *Ethics and Problems of The 21st Century*, Notre Dame, University of Notre Dame Press, 1979.

Gorowitz, S., ed., *Moral Problems In Medicine*, New Jersey, Prentice-Hall, 1976.

Govier, T. 'What Should We Do About Future People?', in J. Narveson, ed., *Moral Issues*, below.

Grey, W. 'Possible Persons and The Problem of Posterity', *Environmental Values*, 5, 1996.

Griffin, J. *Well-Being*, Oxford, Clarendon Press, 1986.

Griffin, J. *Value Judgement*, Oxford, Oxford University Press, 1996.

Griseri, P. 'Can A Dead Man Be Harmed', *Philosophical Investigations*, 10, October 1987.

Grover, D. 'Posthumous Harm', *The Philosophical Quarterly*, 39, 1987.

Grubb, M. 'Seeking Fair Weather: Ethics and the International Debate On Climate Change', *International Affairs*, 71, 3, July 1995.

Grundling, L. 'Our Responsibility To Future Generations', *The American Journal of International Law*, 84, 1990.

Guttman, A., ed., *Multiculturalism: Examining The Politics of Recognition*, Princeton: New Jersey, Princeton University Press, 1994.

Habermas, J. 'Struggles For Recognition In The Democratic Constitutional State', in A. Guttman, ed., *Multiculturalism: Examining The Politics of Recognition*, above.

Habermas, J. *Between Facts and Norms*, Cambridge, Cambridge University Press, 1996.

Hacker, P.M.S. and Raz, J., eds., *Law, Morality and Society: Essays In Honour of H.L.A. Hart*, Oxford, Clarendon, 1977.

Haksar, V. *Equality, Liberty and Perfectionism*, Oxford, Oxford University Press, 1979.

Hampson, F.O. and Reppy, J., eds., *Earthly Goods: Environmental Change and Social Justice*, London, Cornell University Press, 1996.

Hanser, M., 'Harming Future People', *Philosophy and Public Affairs*, 19,1, Winter 1990.

Hart, H.L.A. 'Are There Any Natural Rights', *Philosophical Review*, 64, April 1955.

Hartney, M. 'Some Confusions Concerning Collective Rights', in W. Kymlicka, ed., *The Rights of Minority Cultures*, below.

Hattersley, R. 'Why I'm No Longer Loyal To Labour', *The Guardian*, July 25, 1997.

Heyd, D. 'Procreation and Value: Can Ethics Deal With Futurity Problems?', *Philosophia*, 18, 1988.

Heyd, D. *Genethics: Moral Issues In The Creation of Persons*, Berkeley, California Press, 1992.

Hobbes, T. *Leviathan*, London, Penguin, 1968.

Holtug, N. and Sandoe, P. 'Who Benefits: Why Personal Identity Does Not Matter In A Moral Evaluation Of Germ-Line Gene Therapy', *Journal of Applied Philosophy*, 13, 2, 1996.

Honderich, T. *Three Essays On Political Violence*, Oxford, Blackwell, 1976.

Honderich, T. *Violence For Equality*, London, Routledge, 1989.

Houghton, J.T, Meira Filho, L.G., Bruce, J., Lee, H., Callander, B.A., Haites, E., Harris, N. and Maskell, K., eds., *Climate Change 1994: Radiative Forcing of*

- Climate Change and an Evaluation of the IPCC IS92 Emissions Scenarios*, Cambridge, Cambridge University Press, 1994.
- Houghton, J.T., Meira-Filho, L.G., Callander, B.A., Harris, N., Kattenberg, A. and Maskell, K., eds. *Climate Change 1995: The Science of Climate Change*, Cambridge, Cambridge University Press, 1996.
- Howarth, R.B. 'Intergenerational Justice and The Chain of Obligation', *Environmental Values*, 1, Summer 1992.
- Hubin, D.C. 'Justice Between Generations', *Philosophy and Public Affairs*, 6, 1976.
- Hudson, J.L. 'Rights and the Further Future', *Philosophical Studies*, 49, 1986.
- Hume, D. *A Treatise of Human Nature*, Oxford, Clarendon Press, 1968.
- Hume, D. *Enquiries Concerning Human Understanding and Concerning The Principles of Morals*, Oxford, Clarendon Press, 1975.
- Hurley, S. and Shute, S., eds., *On Human Rights*, New York, Basic Books, 1993.
- Hurrell, A. and Kingsbury, B., eds., *The International Politics of the Environment*, Oxford, Oxford University Press, 1992.
- Jamieson, D. 'Method and Moral Theory', in P. Singer, ed., *A Companion To Ethics*, below.
- Jones, P. *Rights*, London, Macmillan, 1994.
- Jones, P. 'Group Rights: Interests or Identities?', paper presented to the Morrell Conference on Toleration, Identity and Difference, University of York, 18-20 September, 1995.
- Kagan, S. 'The Limits of Well-Being', *Social Philosophy and Policy*, 9, 1992.
- Kamm, F.M. *Creation and Abortion: A Study In Moral and Legal Philosophy*, Oxford, Oxford University Press, 1992.

- Kant, I. 'Idea For A Universal History With A Cosmopolitan Purpose', in H. Reiss, ed., *Kant's Political Writings*, Cambridge, Cambridge University Press, 1970.
- Kavka, G. 'The Futurity Problem', in E. Partridge, ed., *Responsibilities To Future Generations*, below.
- Kavka, G. 'The Paradox of Future Individuals', *Philosophy and Public Affairs*, 11, No. 2. Spring 1982.
- Kleinig, J. 'Crime and The Concept of Harm', *American Philosophical Quarterly*, 15, 1978.
- Kraut, R. 'Two Conceptions of Happiness', *The Philosophical Review*, 88, 2, 1979.
- Kripke, S.A. *Naming and Necessity*, Cambridge, Harvard University Press, 1980.
- Kymlicka, W. *Liberalism, Community and Culture*, Oxford, Clarendon Press, 1989.
- Kymlicka, W. 'Two Theories of Justice', *Inquiry*, 33, 1990.
- Kymlicka, W. 'The Social Contract Tradition', in P. Singer, ed., *A Companion To Ethics*, below.
- Kymlicka, W. *Multicultural Citizenship*, Oxford, Oxford University Press, 1995.
- Kymlicka, W. *The Rights of Minority Cultures*, Oxford, Oxford University Press, 1996.
- Laslett, P. and Fishkin, J.S., eds., *Justice Between Age Groups and Generations*. New Haven, Yale University Press, 1992.
- Levenbrook, B.B. 'Harming Someone After His Death', *Ethics*, 94, April 1984.
- Levenbrook, B.B. 'Harming The Dead, Once Again', *Ethics*, 96, October 1985.
- Lewis, H., ed., *Contemporary British Philosophy*, London, George Allen and Unwin, 1976.
- Locke, D. 'The Parfit Population Problem', *Philosophy*, 62, April 1987.

- Locke, J. *Two Treatises of Government*, London, Everyman, 1924.
- MacIntyre, A. *After Virtue*, London, Duckworth, 1981.
- Mackenzie, M. 'A Note on Motivation and Future Generations', *Environmental Ethics*, 7, Spring 1985.
- Maclean, D. and Brown, P.G., eds., *Energy and The Future*, Totowa: New Jersey, Rowman and Littlefield, 1983.
- McMahan, J. 'Problems With Population Policy', *Ethics*, 92, October 1981.
- McMahan, J. 'Death and The Value of Life', *Ethics*, 99, October 1988.
- McMichael, A. J., Haines, Slooff, R. and Kovats, S. eds., *Climate Change and Human Health*, Geneva, World Health Organisation, 1996.
- McMichael, A..J. et al, 'Human Population Health', in R.T. Watson et al, eds., *Climate Change 1995: Impacts, Adaptations, and Mitigation of Climate Change*, Cambridge, Cambridge University Press, 1996.
- Margalit, A. and Raz, J. 'National Self-Determination', in Raz, *Ethics In The Public Domain*, below.
- Marquis, D. 'Harming The Dead', *Ethics*, 96, October 1985.
- Marshall, P. 'Thinking For Tomorrow: Reflections On Avner De Shalit', *Journal of Applied Philosophy*, 10, 1, 1993.
- Mill, J.S. *Utilitarianism*, London, Fontana, 1962.
- Mill, J.S. *On Liberty*, London, Penguin, 1974.
- Moran, M. and Wright, M., eds., *The Market and The State: Studies In Interdependence*, London, Macmillan, 1991.
- Mulhall, S. and Swift, A. *Liberals and Communitarians*, Oxford, Blackwell, 1992.
- Nagel, T. *Mortal Questions*, New York, Oxford University Press, 1979.

Narveson, J. 'Utilitarianism and New Generations', *Mind*, 76, 1967.

Narveson, J. 'Moral Problems of Population', in M. Bayles, ed., *Ethics and Population* above.

Narveson, J., ed., *Moral Issues*. Oxford, Oxford University Press, 1983.

Newton-Smith, W.H. *Logic*, London, Routledge and Kegan Paul, 1985.

Norton, B.G. 'Environmental Ethics and the Rights of Future Generations', *Environmental Ethics*, 4, Winter 1982.

Nozick, R., *Anarchy, State and Utopia*, Oxford, Basil Blackwell, 1974.

O' Neill, J. 'Future Generations: Present Harms', *Philosophy*, January 1993.

O' Neill, J. *Ecology, Politics and Policy*, London, Routledge, 1995.

O' Neill, O. *Towards Justice and Virtue*, Cambridge, Cambridge University Press, 1996.

O'Riordan, T. and Jager, J., eds., *Politics of Climate Change*, London, Routledge, 1997.

Paden, R. 'Reciprocity and Intergenerational Justice', *Public Affairs Quarterly*, 10, 3, July 1996.

Page, T. 'Intergenerational Justice As Opportunity', in Douglas Maclean and Peter Brown, eds., *Energy and The Future*, above.

Parfit, D. 'Innumerate Ethics', *Arizona Law Review*, 19, 1, 1977.

Parfit, D. 'Future Generations: Further Problems', *Philosophy and Public Affairs* 11, No. 2, Spring 1982.

Parfit, D. 'Energy Policy and The Further Future', in D. Maclean and P. Brown, *Energy and The Future*, above.

Parfit, D. *Reasons and Persons*. Oxford, Oxford University Press, 1984

Parfit, D. 'Comments', *Ethics*, 96, 1986.

Parfit, D. 'Overpopulation and The Quality of Life', in P. Singer, *Applied Ethics*, below.

Parfit, D. 'Equality Or Priority?', Lindley Lecture, University of Kansas, 1995.

Parfit, D. 'Rights, Interests and Possible People', in S. Gorowitz, et al, eds., *Moral Problems In Medicine*, above.

Parry, M.L. et al, *Review of The Potential Effects of Climate Change in the United Kingdom*, London, HMSO Books, 1996.

Partridge, E. 'Posthumous Interests and Posthumous Respect', *Ethics*, 91, 1981.

Partridge, E., ed., *Responsibilities to Future Generations*. Buffalo, Prometheus Books, 1981.

Partridge, E. 'On The Rights of Future Generations', in D. Scherer, ed., *Upstream/Downstream: Issues In Environmental Ethics*, below.

Pasek, J., 'Obligations To Future Generations: A Philosophical Note', *World Development*, 1992.

Passmore, J. *Man's Responsibility For Nature*. London, Duckworth, 1974.

Pearce, F. 'Greenhouse Wars', *New Scientist*, 139, July 1997.

Persson, I. 'Genetic Therapy, Identity and The Person-Regarding Reasons', *Bioethics*, 9, 1, 1995.

Pitcher, G. 'The Misfortunes of The Dead', *American Philosophical Quarterly*, 21, 2, April 1984.

Pogge, T. 'Review of Brian Barry's 'Theories of Justice'', *Journal of Philosophy*, 87, 7, July 1990.

Price, C. *Time, Discounting, and Value*, Oxford, Blackwell, 1994.

Rakowski, E. *Equal Justice*, Oxford, Oxford University Press, 1991.

Ramsey, F. 'A Mathematical Theory of Saving', *Economic Journal*, 38, 1928.

Rawls, J. 'Social Unity and Primary Goods', in A. Sen and B. Williams, *Utilitarianism and Beyond*, below.

Rawls, J. 'The Law of Peoples', in Susan Hurley and Stephen Shute, eds., *On Human Rights*, above.

Rawls, J. *Political Liberalism*. New York, Columbia University Press, 1993.

Rawls, J. *A Theory of Justice*. Cambridge, Harvard University Press, 1971.

Raz, J. *Ethics In The Public Domain*, Oxford, Clarendon, 1994.

Reaume, D. 'Individuals, Groups and Rights to Public Goods', *University of Toronto Law Journal*, 38, 1988.

Reichenbach, B. 'On Obligations to Future Generations', *Public Affairs Quarterly*, 6, 2, April 1992.

Rosenburg, A. 'Equality, Sufficiency, and Opportunity in the Just Society', in E.F. Paul, F.D. Miller, and J. Paul, eds., *The Just Society*, Cambridge, Cambridge University Press, 1995.

Routley, R. and Routley, V. 'Against the Inevitability of Human Chauvinism', in R. Elliot, ed., *Environmental Ethics*, above.

Routley, R. and Routley, V. 'Nuclear Energy and Obligations To The Future', *Inquiry*, 21, 1978.

Sagoff, M. *The Economy of The Earth*, Cambridge, Cambridge University Press, 1988.

Sandel, M. *Liberalism and The Limits of Justice*, Cambridge, Cambridge University Press, 1982.

- Sauve, K. 'Gauthier, Property Rights, and Future Generations', *Canadian Journal of Philosophy*, 25, 2, 1995.
- Scanlon, T.M. 'Contractualism and Utilitarianism' in Sen, A. and Williams, B., eds., *Utilitarianism and Beyond*, below.
- Scherer, D., ed., *Upstream/Downstream: Issues in Environmental Ethics*, Philadelphia, Temple University Press, 1990.
- Schwartz, T. 'Obligations To Posterity', in R.I. Sikora and B. Barry, eds., *Obligations To Future Generations*, below.
- Sen, A. *Choice, Welfare and Measurement*, Oxford, Oxford University Press, 1982.
- Sen, A. *Resources, Values and Development*, Oxford, Basil Blackwell, 1984.
- Sen, A. and Williams, B.A.O., eds., *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, 1982.
- de Shalit, A. 'Bargaining with the Not Yet Born: Gauthier's Contractarian Theory of Inter-Generational Justice and its Limitations', *International Journal of Moral Social Studies*, Autumn 1990.
- de Shalit, A. 'Community and The Rights of Future Generations: A Reply To Robert Elliot', *Journal of Applied Philosophy*, 9, 1992.
- de Shalit, A. 'Environmental Policies and Justice Between Generations', *European Journal of Political Research*, 21, 1992.
- de Shalit, A. *Why Posterity Matters*. London, Routledge, 1996.
- Shapiro, I. and Decew, J.W., eds., *NOMOS XXXVII: Theory and Practice*, New York, New York University Press, 1995.

- Shue, H. 'Avoidable Necessity: Global Warming, International Fairness, and Alternative Energy', in I. Shapiro and J.W. Decew, eds., *NOMOS XXXVII: Theory and Practice*, above.
- Shue, H. 'Environmental Change and The Varieties of Justice', in F.O. Hampson and J. Reppy, eds., *Earthly Goods: Environmental Change and Social Justice*, above.
- Shue, H. 'The Unavoidability of Justice', in A. Hurrell and B. Kingsbury, eds., *The International Politics of The Environment*, above.
- Sidgwick, H. *The Methods of Ethics*, London, Macmillan, 1907.
- Sikora, R.I. 'Utilitarianism, Supererogation and Future Generations', *Canadian Journal of Philosophy*, 9, 1979.
- Sikora, R.I. and Barry, B., eds., *Obligations To Future Generations*. Philadelphia, Temple University Press, 1978.
- Singer, P. *Applied Ethics*. Oxford, Oxford University Press, 1986.
- Singer, P. ed., *A Companion To Ethics*, Oxford, Blackwell, 1996.
- Smart, J.J.C and Williams, B.A.O. *Utilitarianism: For and Against*. Cambridge, Cambridge University Press, 1973.
- Smolkin, D. 'The Non-Identity Problem and the Appeal to Future Persons' Rights', *The Southern Journal of Philosophy*, 32, 1994.
- Sprigge, T.L.S. 'Professor Narveson's Utilitarianism', *Inquiry*, 11, 1968.
- Stearns, J.B. 'Ecology and The Undefinite Unborn', *The Monist*, 56, 1972.
- Steiner, H. 'Markets and Law: The Case of Environmental Conservation', in M. Moran and M. Wright, eds., *The Market and The State: Studies In Interdependence*, above.

Steiner, H. 'The Rights of Future Generations', in Maclean and Brown, eds., *Energy and The Future*, above.

Steiner, H. *An Essay On Rights*, Oxford, Blackwell, 1994.

Sterba, J. 'Abortion, Distant Peoples and Future Generations', *Journal of Philosophy*, 77, July 1980.

Sterba, J. 'Explaining Asymmetry: A Problem For Parfit', *Philosophy and Public Affairs*, 16, Spring 1987.

Sumner, W. *Welfare, Happiness and Ethics*, Oxford, Oxford University Press, 1996.

Taylor, C. 'The Politics of Recognition', in A. Guttman, ed., *Multiculturalism: Examining The Politics of Recognition*, above.

Temkin, L. 'Harmful Goods, Harmless Bads', in R.G. Frey & C. Morris, eds., *Value, Welfare and Morality*, above.

Tooley, M. *Abortion and Infanticide*, Oxford, Clarendon Press, 1983.

Tooley, M. *Causation: A Realist Approach*. Oxford, Clarendon, 1987.

United Nations Conference on Environment and Development, *United Nations Framework Convention On Climate Change*, London, HMSO Books, 1995 (Cm 2833).

Urmson, J.O. *Aristotle's Ethics*. Oxford, Oxford University Press, 1988.

Van Dyke, V. 'Collective Entities and Moral Rights: Problems in Liberal-Democratic Thought', *The Journal of Politics*, 44, 1982.

Van Dyke, V. *Human Rights, Ethnicity, and Discrimination*, Westport: Connecticut, Greenwood, 1985.

Van Dyke, V. 'Justice As Fairness: For Groups?', *The American Political Science Review*, 69, 1975.

Vetter, H. 'Utilitarianism and New Generations', *Mind*, 80, 1971.

Vnturi, F. *Roots of Revolution*, New York, Alfred Knopf, 1960.

Waluchow, W.J. 'Feinberg's Theory of "Posthumous" Harm', *Dialogue*, 25, 1986.

Waldron, J. 'Can Communal Goods be Human Rights', *Archive Europeennes De Sociologie*, 27, 1987.

Waldron, J. *The Right To Private Property*, Oxford, Clarendon, 1988.

Waldron, J. 'Minority Cultures and The Cosmopolitan Alternative', *University of Michigan Journal of Law Reform*, 25, 1992.

Walzer, M. 'The Communitarian Critique of Liberalism', *Political Theory*, 18, 1, 1990.

Walzer, M. *Spheres of Justice*. New York, Basic Books, 1983.

Warren, M.A. 'Do Potential People Have Moral Rights?', *Canadian Journal of Philosophy*, 1, 1977.

Warrick, R.A. et al, eds., 'Changes In Sea Level', in J.T. Houghton et al, eds., *Climate Change 1995: The Science of Climate Change*, above.

Warrick, R.A., Barrow, E.M. and Wigley, T.M.L., eds., *Climate and Sea Level Change*, Cambridge, Cambridge University Press, 1993.

Watson, R.T., Zinyowera, M.C. and Moss, R.H., eds., *Climate Change 1995: Impacts, Adaptations and Mitigation of Climate Change: Scientific-Technical Analyses*, Cambridge, Cambridge University Press, 1996.

Weiss, E.B. 'Our Rights and Obligations To Future Generations For The Environment', *The American Journal of International Law*, 84, 1990.

Weiss, E.B. *In Fairness To Future Generations: International Law, Common Patrimony*. Tokyo, United Nations University, 1989.

- Wenz, P. 'Ethics, Energy Policy and Future Generations', *Environmental Ethics*, 5, 1983.
- Wolf, C. 'Contemporary Property Rights, Lockean Provisos, and the Interests of Future Generations', *Ethics*, 105, 1995.
- Wolff, J. 'Rational, Fair and Reasonable', *Utilitas*, 8, 3, 1996.
- Woodward, J. 'Reply To Parfit', *Ethics*, 97, 1987.
- Woodward, J. 'The Non-Identity Problem', *Ethics*, 96, 1986.
- World Commission On Environment and Development, *Our Common Future*, Oxford, Oxford University Press, 1987.
- Zohar, N.J. 'Prospects For "Genetic Therapy" - Can A Person Benefit From Being Altered?', *Bioethics*, 5, 4, 1991.